

By:




S.B. No. 964

A BILL TO BE ENTITLED

AN ACT

relating to the authorization, administration, and funding of the program to provide financial assistance for the construction, acquisition, or improvement of water supply and sewer services for economically distressed areas.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 15.407(a), Water Code, is amended to read as follows:

(a) In this section, "economically distressed area" and "political subdivision" have the meanings assigned by Section 17.921 [~~16.341 of this code~~].

SECTION 2. Section 16.341, Water Code, is amended by amending Subdivisions (1) and (2) and adding Subdivisions (1-a) and (2-a) to read as follows:

(1) "Affected county" means a border or non-border county[+]

~~[(A) that has a per capita income that averaged 25 percent below the state average for the most recent three consecutive years for which statistics are available and an unemployment rate that averaged 25 percent above the state average for the most recent three consecutive years for which statistics are available, or~~

~~[(B) that is adjacent to an international border].~~

1 (1-a) "Border county" has the meaning assigned by
2 Section 17.921.

3 (2) "Economically distressed area" has the meaning
4 assigned by Section 17.921 ~~[means an area in which:~~

5 ~~[(A) water supply or sewer services are~~
6 ~~inadequate to meet minimal needs of residential users as defined by~~
7 ~~board rules,~~

8 ~~[(B) financial resources are inadequate to~~
9 ~~provide water supply or sewer services that will satisfy those~~
10 ~~needs, and~~

11 ~~[(C) an established residential subdivision was~~
12 ~~located on June 1, 1989, as determined by the board].~~

13 (2-a) "Non-border county" has the meaning assigned by
14 Section 17.921.

15 SECTION 3. Sections 16.343(b) and (c), Water Code, are
16 amended to read as follows:

17 (b) The model rules must:

18 (1) assure that adequate drinking water is available
19 to the residential areas in accordance with Chapter 341, Health and
20 Safety Code, and the Rules and Regulations for Public Water Systems
21 and the Drinking Water Standards Governing Water Quality and
22 Reporting Requirements for Public Water Supply Systems adopted by
23 the Department of State Health Services ~~[Texas Board of Health]~~ and
24 other law and rules applicable to drinking water; ~~[and]~~

25 (2) for border counties, provide criteria applicable
26 to tracts that were divided into two or more parts to lay out a
27 subdivision and were not platted or recorded before September 1,

1 1989; and

2 (3) for non-border counties, provide criteria
3 applicable to tracts that were divided into two or more parts to lay
4 out a subdivision and were not platted or recorded before September
5 1, 2005.

6 (c) The model rules must:

7 (1) assure that adequate sewer facilities are
8 available to the residential areas through either septic tanks or
9 an organized sewage disposal system that is a publicly or privately
10 owned system for the collection, treatment, and disposal of sewage
11 operated in accordance with the terms and conditions of a valid
12 waste discharge permit issued by the commission or private sewage
13 facilities in accordance with Chapter 366, Health and Safety Code,
14 and the Construction Standards for On-Site Sewerage Facilities
15 adopted by the commission and other law and rules applicable to
16 sewage facilities; ~~and~~

17 (2) for border counties, provide criteria applicable
18 to tracts that were divided into two or more parts to lay out a
19 subdivision and were not platted or recorded before September 1,
20 1989; and

21 (3) for non-border counties, provide criteria
22 applicable to tracts that were divided into two or more parts to lay
23 out a subdivision and were not platted or recorded before September
24 1, 2005.

25 SECTION 4. Subchapter C, Chapter 17, Water Code, is amended
26 by adding Section 17.087 to read as follows:

27 Sec. 17.087. RETAIL WATER AND SEWER UTILITY SERVICE FEES.

1 (a) In this section, "retail public utility" and "retail water or
2 sewer utility service" have the meanings assigned by Section
3 13.002.

4 (b) Each retail public utility shall collect from each
5 customer to whom the utility provides retail water or sewer utility
6 service a fee in an amount determined by the commission. The fee
7 may not exceed two cents for each day service is provided.

8 (c) The fee may be listed on the customer's bill as a
9 separate item and shall be collected in addition to other charges
10 for utility services.

11 (d) The commission by rule:

12 (1) shall establish the amount of the fee; and

13 (2) may establish:

14 (A) the due date for the fee;

15 (B) the procedures for collecting the fee; and

16 (C) a penalty for late payment of the fee.

17 (e) The executive director shall collect the fees from the
18 retail public utilities.

19 (f) Fees collected under this section shall be deposited to
20 the credit of the economically distressed areas clearance fund.

21 SECTION 5. Section 17.921, Water Code, is amended by
22 amending Subdivision (1) and adding Subdivisions (6), (7), and (8)
23 to read as follows:

24 (1) "Economically distressed area" means an area in:

25 (A) a border county in which:

26 (i) [~~A~~] water supply or sewer services
27 are inadequate to meet minimal needs of residential users as

1 defined by board rules;

2 (ii) [~~(B)~~] financial resources are
3 inadequate to provide water supply or sewer services that will
4 satisfy those needs; and

5 (iii) [~~(C)~~] an established residential
6 subdivision was located on June 1, 1989, as determined by the board;
7 or

8 (B) a non-border county in which:

9 (i) water supply or sewer services are
10 inadequate to meet minimal needs of residential users as defined by
11 board rules;

12 (ii) financial resources are inadequate to
13 provide water supply or sewer services that will satisfy those
14 needs; and

15 (iii) an established residential
16 subdivision was located on June 1, 2005, as determined by the board.

17 (6) "Border county" means a county that is located
18 adjacent to an international border or a county any part of which is
19 within 62 miles of an international border.

20 (7) "Non-border county" means a county that is not a
21 border county.

22 (8) "Economically distressed areas account" means the
23 economically distressed areas account in the Texas Water
24 Development Fund or the economically distressed areas program
25 account in the Texas Water Development Fund II.

26 SECTION 6. Section 17.922(b), Water Code, is amended to
27 read as follows:

1 (b) To the extent practicable, the board shall use the funds
2 in the economically distressed areas account in conjunction with
3 the other financial assistance available through the board to
4 encourage the use of cost-effective water supply and wastewater
5 systems, including regional systems, to maximize the long-term
6 economic development of counties eligible for financial assistance
7 under the economically distressed areas program. Any savings
8 derived from the construction of a regional system that includes or
9 serves an economically distressed area project shall be factored
10 into the board's determination of financial assistance for the
11 economically distressed area in a manner that assures the
12 economically distressed area receives appropriate benefits from
13 the savings. In no event shall financial assistance provided from
14 the economically distressed areas account be used to provide water
15 supply or wastewater service to any area that is not ~~[defined as]~~ an
16 economically distressed area ~~[pursuant to Section 17.921(1)(A) of~~
17 ~~this code]~~.

18 SECTION 7. Sections 17.927(b), (c), and (d), Water Code,
19 are amended to read as follows:

20 (b) The application and plan must include:

21 (1) the name of the political subdivision and its
22 principal officers ~~[comply with board requirements]~~;

23 (2) a citation of the law under which the political
24 subdivision was created and operates ~~[describe in detail the method~~
25 ~~for delivering water supply and sewer services and the persons to~~
26 ~~whom the services will be provided]~~;

27 (3) a project plan, prepared and certified by an

1 engineer registered to practice in this state, that must:

2 (A) describe the proposed planning, design, and
3 construction activities necessary to provide water supply and sewer
4 services that meet minimum state standards; and

5 (B) identify the households to which the water
6 supply and sewer services will be provided ~~[describe the method for~~
7 ~~complying with minimum state standards for water supply and sewer~~
8 ~~services adopted by the board under Section 16.342 of this code];~~

9 (4) ~~[include]~~ a budget that estimates the total cost
10 of providing water supply and sewer services to the economically
11 distressed area and a proposed schedule and method for repayment of
12 financial assistance consistent with board rules and guidelines;

13 (5) a description of the ~~[describe]~~ existing water
14 supply and sewer facilities located in the ~~[economically~~
15 ~~distressed]~~ area to be served by the proposed project, including a
16 statement ~~[and include with the description:~~

17 ~~[(A) the county map required by Section 366.036,~~
18 ~~Health and Safety Code; or~~

19 ~~[(B) a document]~~ prepared and certified by an
20 engineer registered to practice in this state that the facilities
21 do not meet minimum state standards ~~[describing the plan for~~
22 ~~providing water supply and sewer services to the economically~~
23 ~~distressed area];~~

24 (6) documentation ~~[provide proof]~~ that the
25 appropriate political subdivision has adopted the model rules
26 developed under Section 16.343 ~~[of this code];~~

27 (7) ~~[include]~~ information identifying the median

1 household income for the area to be served by the proposed project
2 ~~[on the ability of potential customers to pay for the services~~
3 ~~provided by the project including composite data prepared by the~~
4 ~~applicant pursuant to board rules and guidelines from surveys of~~
5 ~~those potential customers covering income, family size, personal~~
6 ~~expenses, employment status, and other information required by~~
7 ~~board rule]; and~~

8 (8) the total amount of assistance requested from the
9 economically distressed areas account ~~[include an estimate of the~~
10 ~~per household cost of providing the services contemplated by the~~
11 ~~project with supporting data,~~

12 ~~[(9) describe the procedures to be used to collect~~
13 ~~money from residents who use the proposed water supply and sewer~~
14 ~~services including procedures for collection of delinquent~~
15 ~~accounts,~~

16 ~~[(10) include a requirement that a contractor who~~
17 ~~agrees to acquire, construct, extend, or provide water supply and~~
18 ~~sewer services executes a performance bond in the amount of 100~~
19 ~~percent of the contract price,~~

20 ~~[(11) contain an agreement to comply with applicable~~
21 ~~procurement procedures in contract awards for water supply and~~
22 ~~sewer services,~~

23 ~~[(12) if located in the service area of a retail public~~
24 ~~utility or public utility that has a certificate of public~~
25 ~~convenience and necessity under Chapter 13 of this code, include a~~
26 ~~document in the form of an affidavit signed by the chief executive~~
27 ~~officer of the utility, which shall cooperate with the political~~

1 ~~subdivision, stating that the utility does not object to the~~
2 ~~construction and operation of the services and facilities in its~~
3 ~~service area,~~

4 ~~[(13) include a map of the economically distressed~~
5 ~~area together with supporting information relating to dwellings in~~
6 ~~the area,~~

7 ~~[(14) describe in detail the methods for incorporating~~
8 ~~water conservation into the provision of water and sewer services~~
9 ~~to the economically distressed area,~~

10 ~~[(15) include, on request of the board, a written~~
11 ~~determination by the commission on the managerial, financial, and~~
12 ~~technical capabilities of the applicant to operate the system for~~
13 ~~which assistance is being requested, and~~

14 ~~[(16) include any other information required by the~~
15 ~~board].~~

16 (c) Before the board approves the application or provides
17 any funds under an application, it shall require an applicant to
18 adopt a program of water conservation for the more effective use of
19 water that meets the criteria established under Section 17.125. [If
20 an applicant is a district or nonprofit water supply corporation,
21 the applicant must include with the application proof that the
22 appropriate county and municipalities have given their consent.]

23 (d) Before considering an application, the board may
24 require the applicant to:

25 (1) meet with the board to review the applicant's
26 managerial, financial, and technical capabilities to operate the
27 system for which assistance is being requested;

1 (2) provide a written determination by the commission
2 on the applicant's managerial, financial, and technical
3 capabilities to operate the system for which assistance is being
4 requested;

5 (3) request that the comptroller perform a financial
6 management review of the applicant and, if the review is performed,
7 provide the board with the results of the review; or

8 (4) provide any other information required by the
9 board or the executive administrator. ~~[In an application to the~~
10 ~~board for financial assistance for a water supply project or for~~
11 ~~sewer services, the applicant shall include:~~

12 ~~[(1) the name of the political subdivision and its~~
13 ~~principal officers,~~

14 ~~[(2) a citation of the law under which the political~~
15 ~~subdivision operates and was created,~~

16 ~~[(3) a description of the water supply project or the~~
17 ~~sewer services for which the financial assistance will be used,~~

18 ~~[(4) the estimated total cost of the water supply~~
19 ~~project or sewer services construction,~~

20 ~~[(5) the amount of state financial assistance~~
21 ~~requested,~~

22 ~~[(6) the plan for repaying the financial assistance~~
23 ~~provided for the water supply project or sewer services, and~~

24 ~~[(7) any other information the board requires.]~~

25 SECTION 8. Section 17.929, Water Code, is amended to read as
26 follows:

27 Sec. 17.929. CONSIDERATIONS IN PASSING ON APPLICATION. (a)

1 In passing on an application for financial assistance, the board
2 shall consider:

3 (1) the need of the economically distressed area to be
4 served by the water supply and sewer services in relation to the
5 need of other political subdivisions requiring financial
6 assistance under this subchapter and the relative costs and
7 benefits of all applications;

8 (2) the availability to the area to be served by the
9 project of revenue or financial assistance from alternative sources
10 for the payment of the cost of the proposed project [~~efforts by the~~
11 ~~residents of the economically distressed area to provide necessary~~
12 ~~water supply and sewer services~~];

13 (3) [~~the proposed use of labor from inside the~~
14 ~~political subdivision to perform contracts for providing water~~
15 ~~supply and sewer services~~;

16 [~~(4) the relationship of the proposed water supply and~~
17 ~~sewer services to minimum state standards for water supply and~~
18 ~~sewer services adopted under Section 16.343 of this code~~;

19 [(~~4~~)] the financing of the proposed water supply and
20 sewer project including consideration of:

21 (A) the budget and repayment schedule submitted
22 under Section 17.927(b)(4) [~~of this code~~];

23 (B) other items included in the application
24 relating to financing; and

25 (C) other financial information and data
26 available to the board;

27 [~~(6) whether the applicant has proposed methods for~~

1 ~~incorporating water conservation into the provision of water and~~
2 ~~sewer services to the economically distressed area;]~~

3 (4) [(7)] whether the county and other appropriate
4 political subdivisions have [has] adopted model rules pursuant to
5 Section 16.343 [~~of this code~~] and the manner of enforcement of model
6 rules;

7 ~~[(8) the feasibility of creating a conservation and~~
8 ~~reclamation district under Article XVI, Section 59, of the Texas~~
9 ~~Constitution, to provide the services and finance the water supply~~
10 ~~and sewer services covered by the application with district bonds~~
11 ~~issued and sold through the regular bond market;~~

12 ~~[(9) the percentage of the total project cost that the~~
13 ~~financial assistance will comprise;]~~ and

14 (5) [(10)] the feasibility of achieving cost savings
15 by providing a regional facility for water supply or wastewater
16 service and the feasibility of financing the facility by using
17 funds from the economically distressed areas account or any other
18 financial assistance.

19 (b) At the time an application for financial assistance is
20 considered, the board also must find that the area to be served by a
21 proposed project has a median household income that is not greater
22 than 75 percent of the median state household income [~~an average per~~
23 ~~capita income that is at least 25 percent below the state average]~~
24 for the most recent year [~~three consecutive years~~] for which
25 statistics are available.

26 SECTION 9. Section 17.930(b), Water Code, is amended to
27 read as follows:

1 (b) After making the considerations provided by Section
2 17.929 [~~of this code~~], the board by resolution shall:

3 (1) approve the plan and application as submitted;

4 (2) approve the plan and application subject to the
5 requirements identified by the board or commission for the
6 applicant to obtain the managerial, financial, and technical
7 capabilities to operate the system and any other requirements,
8 including training under Subchapter M, the board considers
9 appropriate;

10 (3) deny the application and identify the requirements
11 or remedial steps the applicant must complete before the applicant
12 may be reconsidered for financial assistance;

13 (4) if the board finds that the applicant will be
14 unable to obtain the managerial, financial, or technical
15 capabilities to build and operate a system, deny the application
16 and issue a determination that a service provider other than the
17 applicant is necessary or appropriate to undertake the proposed
18 project; or

19 (5) deny the application.

20 SECTION 10. Sections 17.933(a) and (c), Water Code, are
21 amended to read as follows:

22 (a) The board may use money in the economically distressed
23 areas account to provide financial assistance to a political
24 subdivision [~~to be repaid~~] in the form of a loan, including a loan
25 with zero interest, grant, or other type of financial assistance to
26 be determined [~~, manner, and time provided~~] by the board [~~rules and~~
27 ~~in the agreement between the board and the political subdivision~~]

1 taking into consideration the information provided by Section
2 17.927(b)(7) [~~of this code~~].

3 (c) The total amount of financial assistance provided by the
4 board to political subdivisions under this subchapter from
5 state-issued bonds for which repayment is not required may not
6 exceed at any time 90 percent of the total principal amount of
7 issued and unissued bonds authorized under Article III, Sections
8 [~~Section~~] 49-d-7 and 49-d-10, of the Texas Constitution, for
9 purposes of this subchapter plus outstanding interest on those
10 bonds.

11 SECTION 11. Section 17.936(c), Water Code, is amended to
12 read as follows:

13 (c) This section applies only to property located in:

14 (1) the unincorporated area of a border or non-border
15 [~~an affected~~] county[, ~~as defined by Section 16.341~~]; and

16 (2) an economically distressed area[, ~~as defined by~~
17 ~~Section 16.341~~].

18 SECTION 12. Section 17.993(a), Water Code, is amended to
19 read as follows:

20 (a) The commission or the board may evaluate whether an
21 operating entity needs training if the operating entity:

22 (1) requests financial assistance or an amendment to
23 the project plan or budget [~~additional funding~~];

24 (2) requests more time to meet its obligations under a
25 repayment schedule;

26 (3) does not provide required documentation; or

27 (4) has a history of compliance problems, as

1 determined by the commission.

2 SECTION 13. Sections 15.407(i), 16.343(f), 17.923, 17.924,
3 17.925, 17.926, and 17.933(g), Water Code, are repealed.

4 SECTION 14. The changes in law made by this Act apply only
5 to an application for financial assistance made on or after the
6 effective date of this Act. An application for financial
7 assistance made before the effective date of this Act is governed by
8 the law in effect on the date the application is made, and the
9 former law is continued in effect for that purpose.

10 SECTION 15. (a) The Texas Commission on Environmental
11 Quality shall adopt rules to implement Section 17.087, Water Code,
12 as added by this Act, not later than March 1, 2006.

13 (b) The fee required by Section 17.087, Water Code, as added
14 by this Act, applies to retail water or sewer utility service
15 provided on or after April 1, 2006.

16 SECTION 16. This Act takes effect on the date on which the
17 constitutional amendment proposed by the 79th Legislature, Regular
18 Session, 2005, providing for the issuance of additional general
19 obligation bonds by the Texas Water Development Board in an amount
20 not to exceed \$500 million to provide assistance to economically
21 distressed areas, takes effect. If that amendment is not approved
22 by the voters, this Act has no effect.

BILL ANALYSIS

Senate Research Center
79R2637 RMB-D

S.B. 964
By: Lucio
International Relations and Trade
4/12/2005
As Filed

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

The 71st Legislature, Regular Session, 1989, passed S.B. 2, which was the state's first major attempt to address the problems associated with colonias. S.B. 2 established the Economically Distressed Areas Program (EDAP) which provided financial assistance in the form of grants and loans for water and wastewater service to economically distressed areas. Under the bill, the Texas Water Development Board (board) was made the EDAP administrator. S.B. 2 directed the board to develop model rules to assure water and sewer services to residential developments and to strengthen platting requirements. Under EDAP, counties or municipalities would be required to adopt the model rules to become eligible for state financial assistance for water and wastewater projects.

While discussing S.B. 2, the office of the attorney general has reported that "incidentally, a basic policy underlying the legislation was that the state would spend millions of dollars to address water and sewer infrastructure needs in existing colonias, but there would be strict laws and rules to prevent new colonias (and costly remediation) from happening."

EDAP was financed in the early 1990s through voter-approved constitutional amendments that authorized the board to issue up to \$250 million in general obligation EDAP bonds. Currently, only a fraction of this bonding authority is left to address the remaining water and wastewater needs of approximately \$785 million in currently-existing traditional EDAP communities.

As proposed, S.B. 964 continues the built-in provisions of EDAP's original eligibility requirements to prevent future substandard colonia-like developments in different parts of the state. S.B. 964 extends EDAP statewide to address traditional EDAP communities' and non-EDAP communities' water and wastewater needs by providing the board new bonding authority, contingent on voter approval, of up to \$500 million.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Commission on Environmental Quality in SECTION 4 (Section 17.087, Water Code) of this bill.

Rulemaking authority previously granted to the Texas Water Development Board is modified in SECTION 3 (Section 16.343, Water Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 15.407(a), Water Code, to redefine "economically distressed area" and "political subdivision."

SECTION 2. Amends Section 16.341, Water Code, by amending Subdivisions (1) and (2) and adding Subdivisions (1-a) and (2-a), to redefine "affected county" and "economically distressed area" and to define "border county" and "non-border county."

SECTION 3. Amends Sections 16.343(b) and (c), Water Code, as follows:

(b) Requires the model rules [adopted by the Texas Water Development Board (board)] to assure that drinking water is available to residential areas in accordance with certain rules and regulations adopted by the Department of State Health Services, rather than the Texas Board of Health. Requires the model rules to provide certain criteria applicable to

certain tracts specifically for both border counties and non-border counties, rather than for all counties.

(c) Makes conforming and nonsubstantive changes.

SECTION 4. Amends Subchapter C, Chapter 17, Water Code, by adding Section 17.087, as follows:

Sec. 17.087. RETAIL WATER AND SEWER UTILITY SERVICE FEES. (a) Defines "retail public utility" and "retail water or sewer utility service."

(b) Requires each retail public utility to collect from each customer to whom the utility provides retail water or sewer utility service a fee in an amount determined by the Texas Commission on Environmental Quality (commission). Sets a cap on the fee.

(c) Sets forth how the fee may be listed on the bill. Requires the fee to be collected in addition to other charges for utility service.

(d) Requires the commission, by rule, to establish the amount of the fee. Authorizes the commission, by rule, to establish the due date of the fee, the procedures for collection, and the penalty for late payment.

(e) Requires the executive director of the commission to collect the fees from the retail public utilities.

(f) Requires fees collected under this section to be deposited to the credit of the economically distressed areas clearance fund.

SECTION 5. Amends Section 17.921, Water Code, by amending Subdivision (1) and adding Subdivisions (6), (7), and (8), to redefine "economically distressed area" and define "border county," "non-border county," and "economically distressed areas account."

SECTION 6. Amends Section 17.922(b), Water Code, to prohibit certain financial assistance to be used to provide certain services to any area that is not an economically distressed area, rather than any area not defined as an economically distressed area pursuant to Section 17.921(1)(A) of this code.

SECTION 7. Amends Sections 17.927(b), (c), and (d), Water Code, as follows:

(b) Requires an application and plan [submitted by a political subdivision to the board for financial assistance] to include certain information, and deletes references to other required information. Makes nonsubstantive changes.

(c) Requires the board, before it approves the application or provides funds, to require an applicant to adopt a certain water conservation program. Deletes the reference to certain applicants including proof with the application of county or municipality consent.

(d) Authorizes the board, before considering an application, to require the applicant to meet with the board, provide certain information, and request a financial review of the applicant. Deletes the reference to certain other information an applicant must include in an application for financial assistance.

SECTION 8. Amends Section 17.929, Water Code, as follows:

(a) Sets forth a new element the board is required to consider in passing on an application for financial assistance, and deletes other elements the board was required to consider. Makes nonsubstantive changes.

(b) Requires the board to find that the area to be served by the proposed project has a median house hold income that is not greater than 75 percent of the median state

household income for the most recent year for which statistics are available, rather than an average per capita income that is at least 25 percent below the state average for the most recent three consecutive years for which statistics are available.

SECTION 9. Amends Section 17.930(b), Water Code, to require the board by resolution, among other options, to approve the plan and application subject to certain requirements identified by the board or commission, rather than by the commission, for the applicant to obtain. Makes a nonsubstantive change.

SECTION 10. Amends Sections 17.933(a) and (c), Water Code, as follows:

(a) Authorizes the board to use money in the economically distressed areas account to provide financial assistance to a political subdivision in the form of a loan, grant, or other type of financial assistance to be determined by the board, rather than to a political subdivision to be repaid in the form, manner, and time provided by board rules and the agreement between the board and political subdivision. Makes a nonsubstantive change.

(c) Provides that the total amount of financial assistance from state-issued bonds for which repayment is not required may not exceed 90 percent of the total principal amount of issued and unissued bonds authorized under Article III, Sections 49-d-7 and 49-d-10, rather than Section 49-d-7, of the Texas Constitution.

SECTION 11. Amends Section 17.936(c), Water Code, to apply this section only to property located in the unincorporated area of a border or non-border county, rather than an affected county. Makes conforming changes.

SECTION 12. Amends Section 17.993(a), Water Code, to authorize the commission or the board to evaluate whether an operating entity needs training if the operating entity requests financial assistance or an amendment to the project plan or budget, rather than additional funding.

SECTION 13. Repealer: Sections 15.407(i) (relating to continued eligibility for funds after a county has an increase in per capita income or a decrease in unemployment), 16.343(f) (providing that only an affected county may adopt the model rules), 17.923 (County Eligibility for Financial Assistance), 17.924 (Municipality Eligible for Financial Assistance), 17.925 (Districts and Nonprofit Water Supply Corporations Eligible for Financial Assistance), 17.926 (Applicants' Continued Eligibility), and 17.933(g) (relating to the cap on the amount of financial assistance for which repayment is not required), Water Code.

SECTION 14. Makes application of this Act prospective.

SECTION 15. Requires the commission to adopt rules to implement Section 17.087, Water Code, as added by this Act, not later than March 1, 2006. Makes application of the fee required by Section 17.087, Water Code, as added by this Act, prospective to April 1, 2006.

SECTION 16. Effective date: upon approval by the voters of the constitutional amendment proposed by the 79th Legislature, Regular Session, 2005, providing for the issuance of additional general obligation bonds by the Texas Water Development Board in an amount not to exceed \$500 million to provide assistance to economically distressed areas. Makes application of this Act contingent upon approval by the voters of the amendment.

By: Lucio S.B. No. 964
(In the Senate - Filed March 3, 2005; March 14, 2005, read first time and referred to Committee on Natural Resources; March 16, 2005, rereferred to Committee on International Relations and Trade; April 18, 2005, reported adversely, with favorable Committee Substitute by the following vote: Yeas 5, Nays 1; April 18, 2005, sent to printer.)

COMMITTEE SUBSTITUTE FOR S.B. No. 964

By: Lucio

A BILL TO BE ENTITLED
AN ACT

relating to the authorization, administration, and funding of the program to provide financial assistance for the construction, acquisition, or improvement of water supply and sewer services for economically distressed areas.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subsection (a), Section 15.407, Water Code, is amended to read as follows:

(a) In this section, "economically distressed area" and "political subdivision" have the meanings assigned by Section 17.921 ~~[16.341 of this code]~~.

SECTION 2. Section 15.973, Water Code, is amended to read as follows:

Sec. 15.973. WATER INFRASTRUCTURE FUND. (a) The water infrastructure fund is a special fund in the state treasury to be administered by the board under this subchapter and rules adopted by the board under this subchapter. Money in the fund may be used to pay for the implementation of water projects recommended through the state and regional water planning processes under this subchapter and Sections 16.051 and 16.053 and for other uses authorized by this subchapter.

(b) The fund consists of:

(1) appropriations from the legislature;
(2) money from the retail water and sewer utility service fee under Section 17.087;

(3) any other fees or sources of revenue that the legislature may dedicate for deposit to the fund;

(4) ~~[(3)]~~ repayments of loans made from the fund;
(5) ~~[(4)]~~ interest earned on money credited to the fund;

(6) ~~[(5)]~~ depository interest allocable to the fund;

(7) ~~[(6)]~~ money from gifts, grants, or donations to the fund;

(8) ~~[(7)]~~ money from revenue bonds or other sources designated by the board; and

(9) ~~[(8)]~~ proceeds from the sale of political subdivision bonds or obligations held in the fund and not otherwise pledged to the discharge, repayment, or redemption of revenue bonds or other bonds, the proceeds of which were placed in the fund.

SECTION 3. Section 15.974, Water Code, is amended by adding Subsection (d) to read as follows:

(d) Money deposited in the fund under Section 15.973(b)(2) may be transferred by the board only to the following accounts or funds:

(1) the economically distressed areas program account of the Texas Water Development Fund II authorized by Section 49-d-8, Article III, Texas Constitution, and Subchapter L, Chapter 17 of this code, to be used for the purposes authorized by law;

(2) the water assistance fund authorized by Subchapter B, to be used for the purposes authorized by Section 15.407; and

(3) the general revenue fund in amounts as directed by legislative appropriation to be used for:

(A) the administrative costs of the board in administering the economically distressed areas program under

Subchapter K, Chapter 17, including the provision of training under Subchapter M, Chapter 17; and

(B) the administrative costs of the commission in collecting the retail water and sewer utility service fee under Section 17.087.

SECTION 4. Section 16.341, Water Code, is amended by amending Subdivisions (1) and (2) and adding Subdivisions (1-a) and (2-a) to read as follows:

(1) "Affected county" means a border or nonborder county[+]

~~[(A) that has a per capita income that averaged 25 percent below the state average for the most recent three consecutive years for which statistics are available and an unemployment rate that averaged 25 percent above the state average for the most recent three consecutive years for which statistics are available; or~~

~~[(B) that is adjacent to an international border].~~

(1-a) "Border county" has the meaning assigned by Section 17.921.

(2) "Economically distressed area" has the meaning assigned by Section 17.921 ~~[means an area in which:~~

~~[(A) water supply or sewer services are inadequate to meet minimal needs of residential users as defined by board rules;~~

~~[(B) financial resources are inadequate to provide water supply or sewer services that will satisfy those needs; and~~

~~[(C) an established residential subdivision was located on June 1, 1989, as determined by the board].~~

(2-a) "Nonborder county" has the meaning assigned by Section 17.921.

SECTION 5. Subsections (b) and (c), Section 16.343, Water Code, are amended to read as follows:

(b) The model rules must:

(1) assure that adequate drinking water is available to the residential areas in accordance with Chapter 341, Health and Safety Code, and the Rules and Regulations for Public Water Systems and the Drinking Water Standards Governing Water Quality and Reporting Requirements for Public Water Supply Systems adopted by the commission ~~[Texas Board of Health]~~ and other law and rules applicable to drinking water; ~~[and]~~

(2) for border counties, provide criteria applicable to tracts that were divided into two or more parts to lay out a subdivision and were not platted or recorded before September 1, 1989; and

(3) for nonborder counties, provide criteria applicable to tracts that were divided into two or more parts to lay out a subdivision and were not platted or recorded before September 1, 2005.

(c) The model rules must:

(1) assure that adequate sewer facilities are available to the residential areas through either septic tanks or an organized sewage disposal system that is a publicly or privately owned system for the collection, treatment, and disposal of sewage operated in accordance with the terms and conditions of a valid waste discharge permit issued by the commission or private sewage facilities in accordance with Chapter 366, Health and Safety Code, and the Construction Standards for On-Site Sewerage Facilities adopted by the commission and other law and rules applicable to sewage facilities; ~~[and]~~

(2) for border counties, provide criteria applicable to tracts that were divided into two or more parts to lay out a subdivision and were not platted or recorded before September 1, 1989; and

(3) for nonborder counties, provide criteria applicable to tracts that were divided into two or more parts to lay out a subdivision and were not platted or recorded before September 1, 2005.

SECTION 6. Section 17.0112, Water Code, is amended to read as follows:

Sec. 17.0112. AUTHORIZATION OF CERTAIN BONDS FOR FINANCIAL ASSISTANCE. (a) The board may issue not more than \$25 million in bonds dedicated under Section 17.0111 of this code and may issue not more than \$50 million in bonds authorized under Section 49-d-10, Article III, Texas Constitution, during a fiscal year to provide financial assistance for water supply and sewer services as provided under Subchapter K of this chapter.

(b) On request of the board, the bond review board by resolution may waive during any state fiscal year the limits ~~[limit]~~ provided by Subsection (a) ~~[of this section]~~ and authorize the board to issue an additional amount of bonds if the bond review board finds that the amount of bonds authorized for that state fiscal year has been exhausted or there is not a sufficient amount of bonds to meet needs of the program during the state fiscal year and that the public health and safety require immediate authorization of additional bonds. Before the bond review board adopts such a resolution, it shall give notice and hold a hearing to determine whether the limits should be waived and the authorization given.

SECTION 7. Subchapter C, Chapter 17, Water Code, is amended by adding Section 17.087 to read as follows:

Sec. 17.087. RETAIL WATER AND SEWER UTILITY SERVICE FEES. (a) In this section, "retail public utility" and "retail water or sewer utility service" have the meanings assigned by Section 13.002.

(b) Each retail public utility shall collect from each household to which the utility provides retail water or sewer utility service a fee in an amount determined by the commission. The fee may not exceed two cents for each day water or sewer service or both are provided.

(c) Not later than January 1 of each year, the board shall report to the commission:

(1) the amount anticipated to be necessary to service, for the next state fiscal year, the debt for the bonds issued or to be issued under Section 49-d-10, Article III, Texas Constitution; and

(2) the anticipated cost, for the next state fiscal year, of facility engineering in economically distressed areas under Section 15.407.

(d) Not later than March 1 of each year, the commission by rule shall establish the fee at an amount that the commission reasonably anticipates will generate an amount of money sufficient to pay the amount:

(1) anticipated by the board under Subsection (c)(1) to be necessary to service for the next state fiscal year the debt for bonds issued or to be issued under Section 49-d-10, Article III, Texas Constitution;

(2) anticipated by the board under Subsection (c)(2) to be necessary for facility engineering in economically distressed areas under Section 15.407 for the next state fiscal year;

(3) appropriated by the legislature for the administrative costs of the board in administering the economically distressed areas program under Subchapter K, including the cost of providing training under Subchapter M; and

(4) appropriated by the legislature for the administrative costs of the commission in collecting the fee.

(e) The fee may be listed on the household's bill as a separate item and shall be collected in addition to other charges for utility services.

(f) The commission by rule may establish:

(1) the due date for the fee;
(2) the procedures for collecting the fee; and
(3) a penalty for late payment of the fee.

(g) The executive director shall collect the fee from the retail public utilities.

(h) Fees collected under this section shall be deposited to the credit of the water infrastructure fund.

SECTION 8. Section 17.921, Water Code, is amended by amending Subdivision (1) and adding Subdivisions (6), (7), and (8) to read as follows:

(1) "Economically distressed area" means an area in:
 (A) a border county in which:
 (i) ~~[(A)]~~ water supply or sewer services are inadequate to meet minimal needs of residential users as defined by board rules;
 (ii) ~~[(B)]~~ financial resources are inadequate to provide water supply or sewer services that will satisfy those needs; and
 (iii) ~~[(C)]~~ an established residential subdivision was located on June 1, 1989, as determined by the board; or

(B) a nonborder county in which:
 (i) water supply or sewer services are inadequate to meet minimal needs of residential users as defined by board rules;
 (ii) financial resources are inadequate to provide water supply or sewer services that will satisfy those needs; and
 (iii) an established residential subdivision was located on June 1, 2005, as determined by the board.

(6) "Border county" means a county that is located adjacent to an international border or a county any part of which is within 62 miles of an international border.

(7) "Nonborder county" means a county that is not a border county.

(8) "Economically distressed areas account" means the economically distressed areas account in the Texas Water Development Fund or the economically distressed areas program account in the Texas Water Development Fund II.

SECTION 9. Section 17.922, Water Code, is amended to read as follows:

Sec. 17.922. FINANCIAL ASSISTANCE. (a) The economically distressed areas account may be used by the board to provide financial assistance to political subdivisions for the construction, acquisition, or improvement of water supply and sewer services, including providing funds from the account for the state's participation in federal programs that provide assistance to political subdivisions. The board may provide assistance to political subdivisions in:

(1) border counties in an amount not to exceed the sum of:

(A) the proceeds of the sale of bonds authorized by Section 49-d-8, Article III, Texas Constitution, and the interest earned on those proceeds;

(B) \$250 million of the proceeds of the sale of bonds authorized by Section 49-d-10, Article III, Texas Constitution, and the interest earned on those proceeds; and

(C) any other funds deposited in the account; and

(2) nonborder counties in an amount not to exceed the sum of:

(A) \$250 million of the proceeds of the sale of bonds authorized by Section 49-d-10, Article III, Texas Constitution, and the interest earned on those proceeds; and

(B) any other funds deposited in the account after September 1, 2005.

(b) To the extent practicable, the board shall use the funds in the economically distressed areas account in conjunction with the other financial assistance available through the board to encourage the use of cost-effective water supply and wastewater systems, including regional systems, to maximize the long-term economic development of counties eligible for financial assistance under the economically distressed areas program. Any savings derived from the construction of a regional system that includes or serves an economically distressed area project shall be factored into the board's determination of financial assistance for the economically distressed area in a manner that assures the

5-1 economically distressed area receives appropriate benefits from
 5-2 the savings. In no event shall financial assistance provided from
 5-3 the economically distressed areas account be used to provide water
 5-4 supply or wastewater service to any area that is not [defined as] an
 5-5 economically distressed area ~~[pursuant to Section 17.921(1)(A) of~~
 5-6 ~~this code]~~.

5-7 SECTION 10. Subsections (b), (c), and (d), Section 17.927,
 5-8 Water Code, are amended to read as follows:

5-9 (b) The application and plan must include:

5-10 (1) the name of the political subdivision and its
 5-11 principal officers ~~[comply with board requirements];~~

5-12 (2) a citation of the law under which the political
 5-13 subdivision was created and operates ~~[describe in detail the method~~
 5-14 ~~for delivering water supply and sewer services and the persons to~~
 5-15 ~~whom the services will be provided];~~

5-16 (3) a project plan, prepared and certified by an
 5-17 engineer registered to practice in this state, that must:

5-18 (A) describe the proposed planning, design, and
 5-19 construction activities necessary to provide water supply and sewer
 5-20 services that meet minimum state standards; and

5-21 (B) identify the households to which the water
 5-22 supply and sewer services will be provided ~~[describe the method for~~
 5-23 ~~complying with minimum state standards for water supply and sewer~~
 5-24 ~~services adopted by the board under Section 16.342 of this code];~~

5-25 (4) ~~[include]~~ a budget that estimates the total cost
 5-26 of providing water supply and sewer services to the economically
 5-27 distressed area and a proposed schedule and method for repayment of
 5-28 financial assistance consistent with board rules and guidelines;

5-29 (5) a description of the ~~[describe]~~ existing water
 5-30 supply and sewer facilities located in the ~~[economically~~
 5-31 ~~distressed]~~ area to be served by the proposed project, including a
 5-32 statement ~~[and include with the description]~~.

5-33 ~~[(A) the county map required by Section 366.036,~~
 5-34 ~~Health and Safety Code, or~~

5-35 ~~[(B) a document]~~ prepared and certified by an
 5-36 engineer registered to practice in this state that the facilities
 5-37 do not meet minimum state standards ~~[describing the plan for~~
 5-38 ~~providing water supply and sewer services to the economically~~
 5-39 ~~distressed area];~~

5-40 (6) documentation ~~[provide proof]~~ that the
 5-41 appropriate political subdivision has adopted the model rules
 5-42 developed under Section 16.343 ~~[of this code];~~

5-43 (7) ~~[include]~~ information identifying the median
 5-44 household income for the area to be served by the proposed project
 5-45 ~~[on the ability of potential customers to pay for the services~~
 5-46 ~~provided by the project including composite data prepared by the~~
 5-47 ~~applicant pursuant to board rules and guidelines from surveys of~~
 5-48 ~~those potential customers covering income, family size, personal~~
 5-49 ~~expenses, employment status, and other information required by~~
 5-50 ~~board rule]; and~~

5-51 (8) the total amount of assistance requested from the
 5-52 economically distressed areas account ~~[include an estimate of the~~
 5-53 ~~per household cost of providing the services contemplated by the~~
 5-54 ~~project with supporting data];~~

5-55 ~~[(9) describe the procedures to be used to collect~~
 5-56 ~~money from residents who use the proposed water supply and sewer~~
 5-57 ~~services including procedures for collection of delinquent~~
 5-58 ~~accounts];~~

5-59 ~~[(10) include a requirement that a contractor who~~
 5-60 ~~agrees to acquire, construct, extend, or provide water supply and~~
 5-61 ~~sewer services executes a performance bond in the amount of 100~~
 5-62 ~~percent of the contract price];~~

5-63 ~~[(11) contain an agreement to comply with applicable~~
 5-64 ~~procurement procedures in contract awards for water supply and~~
 5-65 ~~sewer services];~~

5-66 ~~[(12) if located in the service area of a retail public~~
 5-67 ~~utility or public utility that has a certificate of public~~
 5-68 ~~convenience and necessity under Chapter 13 of this code, include a~~
 5-69 ~~document in the form of an affidavit signed by the chief executive~~

~~officer of the utility, which shall cooperate with the political subdivision, stating that the utility does not object to the construction and operation of the services and facilities in its service area,~~

~~[(13) include a map of the economically distressed area together with supporting information relating to dwellings in the area,~~

~~[(14) describe in detail the methods for incorporating water conservation into the provision of water and sewer services to the economically distressed area,~~

~~[(15) include, on request of the board, a written determination by the commission on the managerial, financial, and technical capabilities of the applicant to operate the system for which assistance is being requested, and~~

~~[(16) include any other information required by the board].~~

(c) Before the board approves the application or provides any funds under an application, it shall require an applicant to adopt a program of water conservation for the more effective use of water that meets the criteria established under Section 17.125 [If an applicant is a district or nonprofit water supply corporation, the applicant must include with the application proof that the appropriate county and municipalities have given their consent].

(d) Before considering an application, the board may require the applicant to:

(1) provide documentation to the executive administrator sufficient to allow review of the applicant's managerial, financial, and technical capabilities to operate the system for which assistance is being requested;

(2) provide a written determination by the commission on the applicant's managerial, financial, and technical capabilities to operate the system for which assistance is being requested;

(3) request that the comptroller perform a financial management review of the applicant and, if the review is performed, provide the board with the results of the review; or

(4) provide any other information required by the board or the executive administrator [In an application to the board for financial assistance for a water supply project or for sewer services, the applicant shall include:

~~[(1) the name of the political subdivision and its principal officers,~~

~~[(2) a citation of the law under which the political subdivision operates and was created,~~

~~[(3) a description of the water supply project or the sewer services for which the financial assistance will be used,~~

~~[(4) the estimated total cost of the water supply project or sewer services construction,~~

~~[(5) the amount of state financial assistance requested,~~

~~[(6) the plan for repaying the financial assistance provided for the water supply project or sewer services, and~~

~~[(7) any other information the board requires].~~

SECTION 11. Section 17.929, Water Code, is amended to read as follows:

Sec. 17.929. CONSIDERATIONS IN PASSING ON APPLICATION.

(a) In passing on an application for financial assistance, the board shall consider:

(1) the need of the economically distressed area to be served by the water supply and sewer services in relation to the need of other political subdivisions requiring financial assistance under this subchapter and the relative costs and benefits of all applications;

(2) the availability to the area to be served by the project of revenue or financial assistance from alternative sources for the payment of the cost of the proposed project [efforts by the residents of the economically distressed area to provide necessary water supply and sewer services];

(3) [the proposed use of labor from inside the

~~political subdivision to perform contracts for providing water supply and sewer services;~~

~~[(4) the relationship of the proposed water supply and sewer services to minimum state standards for water supply and sewer services adopted under Section 16.343 of this code;~~

~~[(5)] the financing of the proposed water supply and sewer project including consideration of:~~

~~(A) the budget and repayment schedule submitted under Section 17.927(b)(4) [of this code];~~

~~(B) other items included in the application relating to financing; and~~

~~(C) other financial information and data available to the board;~~

~~(4) [(6) whether the applicant has proposed methods for incorporating water conservation into the provision of water and sewer services to the economically distressed area;~~

~~[(7)] whether the county and other appropriate political subdivisions have [has] adopted model rules pursuant to Section 16.343 [of this code] and the manner of enforcement of model rules;~~

~~[(8) the feasibility of creating a conservation and reclamation district under Article XVI, Section 59, of the Texas Constitution, to provide the services and finance the water supply and sewer services covered by the application with district bonds issued and sold through the regular bond market;~~

~~[(9) the percentage of the total project cost that the financial assistance will comprise,] and~~

~~(5) [(10)] the feasibility of achieving cost savings by providing a regional facility for water supply or wastewater service and the feasibility of financing the facility by using funds from the economically distressed areas account or any other financial assistance.~~

(b) At the time an application for financial assistance is considered, the board also must find that the area to be served by a proposed project has a median household income that is not greater than 75 percent of the median state household income [an average per capita income that is at least 25 percent below the state average] for the most recent year [three consecutive years] for which statistics are available.

SECTION 12. Subsection (b), Section 17.930, Water Code, is amended to read as follows:

(b) After making the considerations provided by Section 17.929 ~~[of this code]~~, the board by resolution shall:

(1) approve the plan and application as submitted;

(2) approve the plan and application subject to the requirements identified by the board or commission for the applicant to obtain the managerial, financial, and technical capabilities to operate the system and any other requirements, including training under Subchapter M, the board considers appropriate;

(3) deny the application and identify the requirements or remedial steps the applicant must complete before the applicant may be reconsidered for financial assistance;

(4) if the board finds that the applicant will be unable to obtain the managerial, financial, or technical capabilities to build and operate a system, deny the application and issue a determination that a service provider other than the applicant is necessary or appropriate to undertake the proposed project; or

(5) deny the application.

SECTION 13. Subsections (a) and (c), Section 17.933, Water Code, are amended to read as follows:

(a) The board may use money in the economically distressed areas account to provide financial assistance to a political subdivision ~~[to be repaid]~~ in the form of a loan, including a loan with zero interest, grant, or other type of financial assistance to be determined ~~[, manner, and time provided]~~ by the board ~~[rules and in the agreement between the board and the political subdivision]~~ taking into consideration the information provided by Section

17.927(b)(7) [~~of this code~~].

(c) The total amount of financial assistance provided by the board to political subdivisions under this subchapter from state-issued bonds for which repayment is not required may not exceed at any time 90 percent of the total principal amount of issued and unissued bonds authorized under Article III, Sections [Section] 49-d-7 and 49-d-10, of the Texas Constitution, for purposes of this subchapter plus outstanding interest on those bonds.

SECTION 14. Subsection (c), Section 17.936, Water Code, is amended to read as follows:

(c) This section applies only to property located in:

(1) the unincorporated area of a border or nonborder [~~an affected~~] county[, ~~as defined by Section 16.341~~]; and

(2) an economically distressed area[, ~~as defined by Section 16.341~~].

SECTION 15. Section 17.952, Water Code, is amended to read as follows:

Sec. 17.952. ISSUANCE OF WATER FINANCIAL ASSISTANCE BONDS. The board by resolution may provide for the issuance of water financial assistance bonds, which shall be general obligation bonds of the state, in an aggregate principal amount not to exceed the principal amount authorized to be issued by Section 49-d-8 or 49-d-10, Article III, Texas Constitution.

SECTION 16. Subsection (a), Section 17.993, Water Code, is amended to read as follows:

(a) The commission or the board may evaluate whether an operating entity needs training if the operating entity:

(1) requests financial assistance or an amendment to the project plan or budget [~~additional funding~~];

(2) requests more time to meet its obligations under a repayment schedule;

(3) does not provide required documentation; or

(4) has a history of compliance problems, as determined by the commission.

SECTION 17. Section 232.071, Local Government Code, is amended to read as follows:

Sec. 232.071. APPLICABILITY. This subchapter applies only to the subdivision of land located:

(1) outside the corporate limits of a municipality; and

(2) in a county:

(A) in which is located a political subdivision that is eligible for and has applied for financial assistance under Section 15.407, Water Code, or Subchapter K, Chapter 17, Water Code; and

(B) to which Subchapter B does not apply.

SECTION 18. Subsection (i), Section 15.407, Subsection (f), Section 16.343, Sections 17.923 through 17.926, and Subsection (g), Section 17.933, Water Code, are repealed.

SECTION 19. The changes in law made by this Act apply only to an application for financial assistance pending or filed on or after the effective date of this Act.

SECTION 20. (a) The Texas Commission on Environmental Quality shall adopt rules to implement Section 17.087, Water Code, as added by this Act, not later than March 1, 2006.

(b) The fee required by Section 17.087, Water Code, as added by this Act, applies to retail water or sewer utility service provided on or after April 1, 2006.

SECTION 21. This Act takes effect on the date on which the constitutional amendment proposed by the 79th Legislature, Regular Session, 2005, providing for the issuance of additional general obligation bonds by the Texas Water Development Board in an amount not to exceed \$500 million to provide assistance to economically distressed areas, takes effect. If that amendment is not approved by the voters, this Act has no effect.

* * * * *

FAVORABLY AS SUBSTITUTED
SENATE COMMITTEE REPORT ON

(SB) SCR SJR SR HB HCR HJR 964
By Lucio
(Author/Senate Sponsor)
4-18-05
(date)

We, your Committee, on INTERNATIONAL RELATIONS AND TRADE, to which was referred the attached measure,
have on April 14, 2005, had the same under consideration and I am instructed to report it
(date of hearing)
back with the recommendation (s) that it:

- ☒ do pass as substituted, and be printed
☒ the caption remained the same as original measure
☐ the caption changed with adoption of the substitute

☐ do pass as substituted, and be ordered not printed

☐ and is recommended for placement on the Local and Uncontested Bills Calendar.

A fiscal note was requested. ☒ yes ☐ no

A revised fiscal note was requested. ☒ yes ☐ no

An actuarial analysis was requested. ☐ yes ☒ no

Considered by subcommittee. ☐ yes ☒ no

The measure was reported from Committee by the following vote:

	YEA	NAY	ABSENT	PNV
Senator Eddie Lucio, Chair	✓			
Senator Eliot Shapleigh, Vice-Chair	✓			
Senator John Carona	✓			
Senator Kevin Eltife	✓			
Senator Craig Estes			✓	
Senator Kel Seliger		✓		
Senator Judith Zaffirini	✓			
TOTAL VOTES	5	1	1	0

COMMITTEE ACTION

S260 Considered in public hearing

S270 Testimony taken

Laura Hallgren
COMMITTEE CLERK

Eddie Lucio Jr.
CHAIR

Paper clip the original and one copy of this signed form to the original bill along with TWO copies of the Committee Substitute
Retain one copy of this form for Committee files

WITNESS LIST

SB 964

SENATE COMMITTEE REPORT

International Relations & Trade

April 13, 2005 - 1:30PM

FOR: Reed, Cyrus (Lone Star Chapter of Sierra Club/TCPS), Austin, TX

ON: Labatt III, Thomas Weir Board Member (Texas Water Development Board), Austin, TX
Madera, Jr., Ignacio Deputy Executive Administrator (Texas Water Development Board), Austin, TX
Steinberg, Jonathan Deputy Counsel (Texas Water Development Board), Austin, TX
Ward, J. Kevin Executive Administrator (Texas Water Development Board), Austin, TX

Registering, but not testifying:

For: Rice, Chuck (Texas Land Developers Association), Austin, TX

On: Garcia, Buddy Asst. Secretary of State/Border Commerce Coordinator (Secretary of State), Austin, TX

BILL ANALYSIS

Senate Research Center
79R12634 RMB-D

C.S.S.B. 964
By: Lucio
International Relations & Trade
4/18/2005
Committee Report (Substituted)

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

The 71st Legislature, Regular Session, 1989, passed S.B. 2, which was the state's first major attempt to address the problems associated with colonias. S.B. 2 established the Economically Distressed Areas Program (EDAP) which provided financial assistance in the form of grants and loans for water and wastewater service to economically distressed areas. Under the bill, the Texas Water Development Board (board) was made the EDAP administrator. S.B. 2 directed the board to develop model rules to assure water and sewer services to residential developments and to strengthen platting requirements. Under EDAP, counties or municipalities would be required to adopt the model rules to become eligible for state financial assistance for water and wastewater projects.

While discussing S.B. 2, the office of the attorney general has reported that "incidentally, a basic policy underlying the legislation was that the state would spend millions of dollars to address water and sewer infrastructure needs in existing colonias, but there would be strict laws and rules to prevent new colonias (and costly remediation) from happening."

EDAP was financed in the early 1990s through voter-approved constitutional amendments that authorized the board to issue up to \$250 million in general obligation EDAP bonds. Currently, only a fraction of this bonding authority is left to address the remaining water and wastewater needs of approximately \$785 million in currently-existing traditional EDAP communities.

C.S.S.B. 964 continues the built-in provisions of EDAP's original eligibility requirements to prevent future substandard colonia-like developments in different parts of the state. C.S.S.B. 964 extends EDAP statewide to address traditional EDAP communities' and non-EDAP communities' water and wastewater needs by providing the board new bonding authority, contingent on voter approval, of up to \$500 million.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Commission on Environmental Quality in SECTION 7 (Section 17.087, Water Code) of this bill.

Rulemaking authority previously granted to the Texas Water Development Board is modified in SECTION 5 (Section 16.343, Water Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 15.407(a), Water Code, to redefine "economically distressed area" and "political subdivision."

SECTION 2. Amends Section 15.973, Water Code, to authorize money in the water infrastructure fund (fund) to be used to pay for the implementation of water projects recommended through the state and regional water planning processes under this subchapter, as well as under Sections 16.051 and 16.053, and for other uses authorized by this subchapter. Provides that the fund includes money from the retail water and sewer utility service fee under Section 17.087. Makes nonsubstantive changes.

SECTION 3. Amends Section 15.974, Water Code, by adding Subsection (d), to authorize money deposited in the fund from the retail water and sewer utility service fee under Section

17.087 to be transferred by the Texas Water Development Board (board) only to certain specified accounts or funds.

SECTION 4. Amends Section 16.341, Water Code, by amending Subdivisions (1) and (2) and adding Subdivisions (1-a) and (2-a), to redefine "affected county" and "economically distressed area" and to define "border county" and "non-border county."

SECTION 5. Amends Sections 16.343(b) and (c), Water Code, as follows:

(b) Requires the model rules [adopted by the board] to assure that drinking water is available to residential areas in accordance with certain rules and regulations adopted by the Texas Commission on Environmental Quality (commission), rather than the Texas Board of Health. Requires the model rules to provide certain criteria applicable to certain tracts specifically for both border counties and non-border counties, rather than for all counties.

(c) Makes conforming and nonsubstantive changes.

SECTION 6. Amends Section 17.0112, Water Code, to authorize the board to issue not more than \$50 million in bonds authorized under Section 49-d-10, Article III, Texas Constitution, during a fiscal year to provide financial assistance for certain water supply and sewer services. Makes conforming and nonsubstantive changes.

SECTION 7. Amends Subchapter C, Chapter 17, Water Code, by adding Section 17.087, as follows:

Sec. 17.087. RETAIL WATER AND SEWER UTILITY SERVICE FEES. (a) Defines "retail public utility" and "retail water or sewer utility service."

(b) Requires each retail public utility to collect from each household to which the utility provides retail water or sewer utility service a fee in an amount determined by the commission. Sets a cap on the fee.

(c) Requires the board to report to the commission, not later than January 1 of each year, the amount anticipated to be necessary to service, for the next state fiscal year, the debt for the bonds issued or to be issued under Section 49-d-10, Texas Constitution, and the anticipated cost, for the next state fiscal year, of facility engineering in economically distressed areas under Section 15.407 of this code.

(d) Requires the commission, not later than March 1 of each year, to establish, by rule, the fee at an amount that the commission reasonably anticipates will generate an amount of money sufficient to pay certain costs.

(e) Authorizes the fee to be listed on the household's bill as a separate item. Requires the fee to be collected in addition to other charges for utility service.

(f) Authorizes the commission, by rule, to establish the due date of the fee, the procedures for collection, and the penalty for late payment.

(g) Requires the executive director of the commission to collect the fee from the retail public utilities.

(h) Requires fees collected under this section to be deposited to the credit of the water infrastructure fund.

SECTION 8. Amends Section 17.921, Water Code, by amending Subdivision (1) and adding Subdivisions (6), (7), and (8), to redefine "economically distressed area" and define "border county," "non-border county," and "economically distressed areas account."

SECTION 9. Amends Section 17.922, Water Code, to authorize the board to provide assistance to political subdivisions in border and non-border counties, and provides for caps on the assistance for the respective types of counties. Prohibits certain financial assistance to be used to provide certain water services to any area that is not an economically distressed area, rather than any area not defined as an economically distressed area pursuant to Section 17.921(1)(A) of this code.

SECTION 10. Amends Sections 17.927(b), (c), and (d), Water Code, as follows:

(b) Requires an application and plan [submitted by a political subdivision to the board for financial assistance] to include certain information, and deletes references to other required information. Makes nonsubstantive changes.

(c) Requires the board, before it approves the application or provides funds, to require an applicant to adopt a certain water conservation program. Deletes the reference to certain applicants including proof with the application of county or municipality consent.

(d) Authorizes the board, before considering an application, to require the applicant to provide certain information and documentation, provide a written determination by the commission on the applicant's capabilities to operate the system for which assistance is being requested, and request a financial review of the applicant. Deletes existing text relating to certain other information an applicant must include in an application for financial assistance.

SECTION 11. Amends Section 17.929, Water Code, as follows:

(a) Sets forth a new element the board is required to consider in passing on an application for financial assistance, and deletes other elements the board was required to consider. Makes conforming and nonsubstantive changes.

(b) Requires the board to find that the area to be served by the proposed project has a median house hold income that is not greater than 75 percent of the median state household income for the most recent year for which statistics are available, rather than an average per capita income that is at least 25 percent below the state average for the most recent three consecutive years for which statistics are available.

SECTION 12. Amends Section 17.930(b), Water Code, to require the board by resolution, among other options, to approve the plan and application subject to certain requirements identified by the board or commission, rather than by the commission, for the applicant to obtain. Makes a nonsubstantive change.

SECTION 13. Amends Sections 17.933(a) and (c), Water Code, as follows:

(a) Authorizes the board to use money in the economically distressed areas account to provide financial assistance to a political subdivision in the form of a loan, grant, or other type of financial assistance to be determined by the board, rather than to a political subdivision to be repaid in the form, manner, and time provided by board rules and the agreement between the board and political subdivision. Makes a nonsubstantive change.

(c) Provides that the total amount of financial assistance from state-issued bonds for which repayment is not required may not exceed 90 percent of the total principal amount of issued and unissued bonds authorized under Article III, Sections 49-d-7 and 49-d-10, rather than Section 49-d-7, of the Texas Constitution.

SECTION 14. Amends Section 17.936(c), Water Code, to apply this section only to property located in the unincorporated area of a border or non-border county, rather than an affected county. Makes a conforming change.

SECTION 15. Amends Section 17.952, Water Code, to authorize the board by resolution to provide for the issuance of water financial assistance bonds in an aggregate principal amount not

to exceed the principal amount authorized to be issued by Section 49-d-8 or 49-d-10, rather than just Section 49-d-8, Article III, Texas Constitution.

SECTION 16. Amends Section 17.993(a), Water Code, to authorize the commission or the board to evaluate whether an operating entity needs training if the operating entity requests financial assistance or an amendment to the project plan or budget, rather than additional funding.

SECTION 17. Amends Section 232.071, Local Government Code, to provide that this subchapter (County Planning Commission) applies to the subdivision of land located in a county in which is located a political subdivision that is eligible for or has applied for financial assistance under Section 15.407, Water Code, or Subchapter K (Assistance to Economically Distressed Areas for Water Supply and Sewer Service Projects), Chapter 17, Water Code, rather than in a county eligible for financial assistance under those provisions in the Water Code.

SECTION 18. Repealer: Sections 15.407(i) (relating to continued eligibility for funds after a county has an increase in per capita income or a decrease in unemployment), 16.343(f) (providing that only an affected county may adopt the model rules), 17.923 (County Eligibility for Financial Assistance), 17.924 (Municipality Eligible for Financial Assistance), 17.925 (Districts and Nonprofit Water Supply Corporations Eligible for Financial Assistance), 17.926 (Applicants' Continued Eligibility), and 17.933(g) (relating to the cap on the amount of financial assistance for which repayment is not required), Water Code.

SECTION 19. Makes application of this Act prospective to applications for financial assistance pending or filed on or after the effective date of this Act.

SECTION 20. Requires the commission to adopt rules to implement Section 17.087, Water Code, as added by this Act, not later than March 1, 2006. Makes application of the fee required by Section 17.087, Water Code, as added by this Act, prospective to April 1, 2006.

SECTION 21. Effective date: upon approval by the voters of the constitutional amendment proposed by the 79th Legislature, Regular Session, 2005, providing for the issuance of additional general obligation bonds by the Texas Water Development Board in an amount not to exceed \$500 million to provide assistance to economically distressed areas. Makes application of this Act contingent upon approval by the voters of the amendment.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

April 15, 2005

TO: Honorable Eddie Lucio, Jr., Chair, Senate Committee on International Relations & Trade

FROM: John S. O'Brien, Deputy Director, Legislative Budget Board

IN RE: **SB964** by Lucio (Relating to the authorization, administration, and funding of the program to provide financial assistance for the construction, acquisition, or improvement of water supply and sewer services for economically distressed areas.), **Committee Report 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for SB964, Committee Report 1st House, Substituted: an impact of \$0 through the biennium ending August 31, 2007.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2006	\$0
2007	\$0
2008	\$0
2009	\$0
2010	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain from <i>Water Infrastructure Fund No. 302</i>	Probable Savings/(Cost) from <i>Water Infrastructure Fund No. 302</i>	Change in Number of State Employees from FY 2005
2006	\$97,359	(\$97,359)	2.0
2007	\$7,047,952	(\$7,047,952)	8.5
2008	\$12,095,904	(\$12,095,904)	17.0
2009	\$16,430,465	(\$16,430,464)	17.0
2010	\$20,368,934	(\$18,942,150)	17.0

Fiscal Analysis

The bill would modify current eligibility requirements for communities to qualify for funding under the Economically Distressed Areas Program (EDAP) operated by the Water Development Board, removing requirements linking eligibility to average per capita income, unemployment levels, and proximity to the international border and replacing them with a requirement based on median income. For a community to receive EDAP assistance, the county in which that community is located would have to have adopted the model subdivision rules in Water Code, § 16.343.

The bill would provide for the Texas Commission on Environmental Quality (TCEQ) to establish a fee

to be collected by retail public utilities to be deposited to the credit of the Water Infrastructure Fund No. 302. The amount of fees collected could not exceed two cents per day per customer. The fee could not be established until April 1, 2006, and proceeds could be used to pay debt service on bonds issued for the EDAP program and for other forms of financial assistance, such as facility planning.

Enactment of the bill would be contingent upon voter approval of a constitutional amendment proposed by the Seventy-ninth Legislature, Regular Session, 2005, providing for the issuance of \$500 million in additional general obligation bonds for EDAP assistance.

Methodology

This estimate assumes that \$50 million in EDAP general obligation bonds would be issued each fiscal year from 2007 thru 2016. It is assumed that the fee set by TCEQ and collected by retail public utilities would be set at a rate to cover the cost of debt service and facility planning costs each year and be paid out of the Water Infrastructure Fund No. 302. Debt service would cost \$4.3 million in fiscal year 2007, rising to \$16.9 million by fiscal year 2010. An additional \$2 million in facility planning grants would be made from proceeds of the Water Infrastructure Fund No. 302.

Because of the increase in activity in the EDAP program (an anticipated increase of 10 to 15 EDAP applications annually), the Water Development Board would require additional FTEs for program operations. Since fees in the bill could not be created until April 1, 2006, this estimate assumes that the first bonds would be issued in fiscal year 2007. Therefore, additional staff needs in fiscal year 2006 would be limited to one additional FTE and related costs to coordinate rules and program procedures. In fiscal year 2007, an additional 6.5 FTEs would be added to process applications and coordinate facility planning projects. In fiscal year 2008, an additional 8.5 FTEs would be added to provide capacity development services and handle the increased workload resulting from additional projects being started while other projects move into later stages of development. It is assumed that this staffing level would be maintained through fiscal year 2010.

Administrative costs to the Water Development Board would be \$97,359 in fiscal year 2006, \$713,392 in fiscal year 2007, and \$1,426,784 in future years. Because the bill provides for such administrative costs to be paid out of the Water Infrastructure Fund No. 302, this estimate assumes that the retail water and sewer utility fee would be set at a rate to cover administrative as well as debt service and facility planning costs.

Local Government Impact

Local governments throughout the state would be the beneficiaries of an additional \$50 million in funding for EDAP projects upon passage of the bill. There could be some costs to local governments and demonstrate sufficient managerial, financial, and technical assistance to operate the system for which the entity would be applying to the Water Development Board for funding. Any cost would be more than offset by assistance received from the EDAP program. However, an applicant not awarded a grant would be required to absorb such costs.

Source Agencies: 580 Water Development Board, 582 Commission on Environmental Quality

LBB Staff: JOB, CL, ZS, TL

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

April 12, 2005

TO: Honorable Eddie Lucio, Jr., Chair, Senate Committee on International Relations & Trade

FROM: John S. O'Brien, Deputy Director, Legislative Budget Board

IN RE: **SB964** by Lucio (Relating to the authorization, administration, and funding of the program to provide financial assistance for the construction, acquisition, or improvement of water supply and sewer services for economically distressed areas.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for SB964, As Introduced: a negative impact of (\$905,859) through the biennium ending August 31, 2007.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2006	(\$192,467)
2007	(\$713,392)
2008	(\$1,426,784)
2009	(\$1,426,784)
2010	(\$1,426,784)

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain from <i>Economically Distressed Areas Clearance Fund</i>	Probable Savings/ (Cost) from <i>Economically Distressed Areas Clearance Fund</i>	Probable Savings/ (Cost) from <i>GENERAL REVENUE FUND</i> 1	Change in Number of State Employees from FY 2005
2006	\$0	\$0	(\$192,467)	2.0
2007	\$6,334,560	(\$6,334,560)	(\$713,392)	8.5
2008	\$10,669,120	(\$10,669,120)	(\$1,426,784)	17.0
2009	\$15,003,681	(\$15,003,681)	(\$1,426,784)	17.0
2010	\$18,942,150	(\$18,942,150)	(\$1,426,784)	17.0

Fiscal Analysis

The bill would modify current eligibility requirements for communities to qualify for funding under the Economically Distressed Areas Program (EDAP) operated by the Water Development Board, removing requirements linking eligibility to average per capita income, unemployment levels, and proximity to the international border and replacing them with a requirement based on median income. For a community to receive EDAP assistance, the county in which that community is located would have to have adopted the model subdivision rules in Water Code, § 16.343.

The bill would provide for the Texas Commission on Environmental Quality (TCEQ) to establish a fee

to be collected by retail public utilities to be deposited to the credit of the economically distressed areas clearance fund. The amount of fees collected could not exceed two cents per day per customer. The fee could not be established until April 1, 2006, and proceeds could be used to pay debt service on bonds issued for the EDAP program and for other forms of financial assistance, such as facility planning.

Enactment of the bill would be contingent upon voter approval of a constitutional amendment proposed by the Seventy-ninth Legislature, Regular Session, 2005, providing for the issuance of \$500 million in additional general obligation bonds for EDAP assistance.

Methodology

This estimate assumes that \$50 million in EDAP general obligation bonds would be issued each fiscal year from 2007 thru 2016. It is assumed that the fee set by TCEQ and collected by retail public utilities would be set at a rate to cover the cost of debt service and facility planning costs each year and be paid out of the Economically Distressed Areas Clearance Fund. Debt service would cost \$4.3 million in fiscal year 2007, rising to \$16.9 million by fiscal year 2010. An additional \$2 million in facility planning grants would be made from proceeds of the Economically Distressed Areas Clearance Fund.

Because of the increase in activity in the EDAP program (an anticipated increase of 10 to 15 EDAP applications annually), the Water Development Board would require additional FTEs for program operations. Because the bill does not provide for such administrative costs to be paid out of the Economically Distressed Areas Clearance Fund, this estimate assumes these costs would be paid out of the General Revenue Fund.

Since fees generating revenue to pay debt service costs would not be created until April 1, 2006, this estimate assumes that the first bonds would be issued in fiscal year 2007. Therefore, additional staff needs in fiscal year 2006 would be limited to two additional FTEs and related costs to coordinate rules and program procedures. In fiscal year 2007, an additional 6.5 FTEs would be added to process applications and coordinate facility planning projects. In fiscal year 2008, an additional 8.5 FTEs would be added to provide capacity development services and handle the increased workload resulting from additional projects being started while other projects move into later stages of development. It is assumed that this staffing level would be maintained through fiscal year 2010.

Local Government Impact

Local governments throughout the state would be the beneficiaries of an additional \$50 million in funding for EDAP projects upon passage of the bill. There could be some costs to local governments and demonstrate sufficient managerial, financial, and technical assistance to operate the system for which the entity would be applying to the Water Development Board for funding. Any cost would be more than offset by assistance received from the EDAP program. However, an applicant not awarded a grant would be required to absorb such costs.

Source Agencies: 580 Water Development Board, 582 Commission on Environmental Quality

LBB Staff: JOB, CL, ZS, TL

ADOPTED

26-5

MAY 03 2005

go amended
Haley
Secretary of the Senate

By: Lucio Zaffirini, Hinojosa
Substitute the following for S.B. No. 964:

S.B. No. 964

By: Lucio

C.S. S.B. No. 964

A BILL TO BE ENTITLED

AN ACT

relating to the authorization, administration, and funding of the program to provide financial assistance for the construction, acquisition, or improvement of water supply and sewer services for economically distressed areas.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. ^{Subsection (a),} Section 15.407~~(a)~~, Water Code, is amended to read as follows:

(a) In this section, "economically distressed area" and "political subdivision" have the meanings assigned by Section 17.921 [~~16.341~~ of this code].

SECTION 2. Section 15.973, Water Code, is amended to read as follows:

Sec. 15.973. WATER INFRASTRUCTURE FUND. (a) The water infrastructure fund is a special fund in the state treasury to be administered by the board under this subchapter and rules adopted by the board under this subchapter. Money in the fund may be used to pay for the implementation of water projects recommended through the state and regional water planning processes under this subchapter and Sections 16.051 and 16.053 and for other uses authorized by this subchapter.

(b) The fund consists of:

(1) appropriations from the legislature;

(2) money from the retail water and sewer utility

1 service fee under Section 17.087;

2 (3) any other fees or sources of revenue that the
3 legislature may dedicate for deposit to the fund;

4 (4) [(3)] repayments of loans made from the fund;

5 (5) [(4)] interest earned on money credited to the
6 fund;

7 (6) [(5)] depository interest allocable to the fund;

8 (7) [(6)] money from gifts, grants, or donations to
9 the fund;

10 (8) [(7)] money from revenue bonds or other sources
11 designated by the board; and

12 (9) [(8)] proceeds from the sale of political
13 subdivision bonds or obligations held in the fund and not otherwise
14 pledged to the discharge, repayment, or redemption of revenue bonds
15 or other bonds, the proceeds of which were placed in the fund.

16 SECTION 3. Section 15.974, Water Code, is amended by adding
17 Subsection (d) to read as follows:

18 (d) Money deposited in the fund under Section 15.973(b)(2)
19 may be transferred by the board only to the following accounts or
20 funds:

21 (1) the economically distressed areas program account
22 of the Texas Water Development Fund II authorized by Section
23 49-d-8, Article III, Texas Constitution, and Subchapter L, Chapter
24 17 of this code, to be used for the purposes authorized by law;

25 (2) the water assistance fund authorized by Subchapter
26 B, to be used for the purposes authorized by Section 15.407; and

27 (3) the general revenue fund in amounts as directed by

1 legislative appropriation to be used for:

2 (A) the administrative costs of the board in
3 administering the economically distressed areas program under
4 Subchapter K, Chapter 17, including the provision of training under
5 Subchapter M, Chapter 17; and

6 (B) the administrative costs of the commission in
7 collecting the retail water and sewer utility service fee under
8 Section 17.087.

Insert
F.A.#19
(1)
9 SECTION 4. Section 16.341, Water Code, is amended by
10 amending Subdivisions (1) and (2) and adding Subdivisions (1-a) and
11 (2-a) to read as follows:

12 (1) "Affected county" means a border or non-border
13 county[+]

14 [~~(A) that has a per capita income that averaged~~
15 ~~25 percent below the state average for the most recent three~~
16 ~~consecutive years for which statistics are available and an~~
17 ~~unemployment rate that averaged 25 percent above the state average~~
18 ~~for the most recent three consecutive years for which statistics~~
19 ~~are available; or~~

20 [~~(B) that is adjacent to an international~~
21 ~~border]~~.

22 (1-a) "Border county" has the meaning assigned by
23 Section 17.921.

24 (2) "Economically distressed area" has the meaning
25 assigned by Section 17.921 [~~means an area in which:~~

26 [~~(A) water supply or sewer services are~~
27 ~~inadequate to meet minimal needs of residential users as defined by~~

1 ~~board rules;~~

2 ~~[(B) financial resources are inadequate to~~
3 ~~provide water supply or sewer services that will satisfy those~~
4 ~~needs; and~~

5 ~~[(C) an established residential subdivision was~~
6 ~~located on June 1, 1989, as determined by the board].~~

7 (2-a) "Nonborder county" has the meaning assigned by
8 Section 17.921.

Subsections (b) and (c),

9 SECTION 5. ~~Sections 16.343(b) and (c),~~ Water Code, are
10 amended to read as follows:

11 (b) The model rules must:

12 (1) assure that adequate drinking water is available
13 to the residential areas in accordance with Chapter 341, Health and
14 Safety Code, and the Rules and Regulations for Public Water Systems
15 and the Drinking Water Standards Governing Water Quality and
16 Reporting Requirements for Public Water Supply Systems adopted by
17 the commission ~~[Texas Board of Health]~~ and other law and rules
18 applicable to drinking water; ~~and~~

19 (2) for border counties, provide criteria applicable
20 to tracts that were divided into two or more parts to lay out a
21 subdivision and were not platted or recorded before September 1,
22 1989; and

23 (3) for nonborder counties, provide criteria
24 applicable to tracts that were divided into two or more parts to lay
25 out a subdivision and were not platted or recorded before September
26 1, 2005.

27 (c) The model rules must:

1 (1) assure that adequate sewer facilities are
2 available to the residential areas through either septic tanks or
3 an organized sewage disposal system that is a publicly or privately
4 owned system for the collection, treatment, and disposal of sewage
5 operated in accordance with the terms and conditions of a valid
6 waste discharge permit issued by the commission or private sewage
7 facilities in accordance with Chapter 366, Health and Safety Code,
8 and the Construction Standards for On-Site Sewerage Facilities
9 adopted by the commission and other law and rules applicable to
10 sewage facilities; ~~and~~

11 (2) for border counties, provide criteria applicable
12 to tracts that were divided into two or more parts to lay out a
13 subdivision and were not platted or recorded before September 1,
14 1989; and

15 (3) for non^eborder counties, provide criteria
16 applicable to tracts that were divided into two or more parts to lay
17 out a subdivision and were not platted or recorded before September
18 1, 2005.

19 SECTION ⁴4. Section 17.0112, Water Code, is amended to read
20 as follows:

21 Sec. 17.0112. AUTHORIZATION OF CERTAIN BONDS FOR FINANCIAL
22 ASSISTANCE. (a) The board may issue not more than \$25 million in
23 bonds dedicated under Section 17.0111 of this code and may issue not
24 more than \$50 million in bonds authorized under Section 49-d-10,
25 Article III, Texas Constitution, during a fiscal year to provide
26 financial assistance for water supply and sewer services as
27 provided under Subchapter K of this chapter.

1 (b) On request of the board, the bond review board by
2 resolution may waive during any state fiscal year the limits
3 [~~limit~~] provided by Subsection (a) [~~of this section~~] and authorize
4 the board to issue an additional amount of bonds if the bond review
5 board finds that the amount of bonds authorized for that state
6 fiscal year has been exhausted or there is not a sufficient amount
7 of bonds to meet needs of the program during the state fiscal year
8 and that the public health and safety require immediate/ 2/4
9 authorization of additional bonds. Before the bond review board
10 adopts such a resolution, it shall give notice and hold a hearing to
11 determine whether the limits should be waived and the authorization
12 given.

F.A. #2
14 SECTION 7. Subchapter C, Chapter 17, Water Code, is amended
by adding Section 17.087 to read as follows:

15 Sec. 17.087. RETAIL WATER AND SEWER UTILITY SERVICE FEES.
16 (a) In this section, "retail public utility" and "retail water or
17 sewer utility service" have the meanings assigned by Section
18 13.002.

19 (b) Each retail public utility shall collect from each
20 household to which the utility provides retail water or sewer
21 utility service a fee in an amount determined by the commission.
22 The fee may not exceed two cents for each day water or sewer service
23 or both are provided.

24 (c) Not later than January 1 of each year, the board shall
25 report to the commission:

26 (1) the amount anticipated to be necessary to service,
27 for the next state fiscal year, the debt for the bonds issued or to

1 be issued under Section 49-d-10, Article III, Texas Constitution;

2 and

3 (2) the anticipated cost, for the next state fiscal
4 year, of facility engineering in economically distressed areas
5 under Section 15.407 of this code.

6 (d) Not later than March 1 of each year, the commission by
7 rule shall establish the fee at an amount that the commission
8 reasonably anticipates will generate an amount of money sufficient
9 to pay the amount:

10 (1) anticipated by the board under Subsection (c)(1)
11 to be necessary to service for the next state fiscal year the debt
12 for bonds issued or to be issued under Section 49-d-10, Article III,
13 Texas Constitution;

14 (2) anticipated by the board under Subsection (c)(2)
15 to be necessary for facility engineering in economically distressed
16 areas under Section 15.407 of this code for the next state fiscal
17 year;

18 (3) appropriated by the legislature for the
19 administrative costs of the board in administering the economically
20 distressed areas program under Subchapter K, Chapter 17, of this
21 code including the cost of providing training under Subchapter M,
22 Chapter 17; and

23 (4) appropriated by the legislature for the
24 administrative costs of the commission in collecting the fee.

25 (e) The fee may be listed on the household's bill as a
26 separate item and shall be collected in addition to other charges
27 for utility services.

1 (f) The commission by rule may establish:

2 (1) the due date for the fee;

3 (2) the procedures for collecting the fee; and

4 (3) a penalty for late payment of the fee.

5 (g) The executive director shall collect the fee from the
6 retail public utilities.

7 (h) Fees collected under this section shall be deposited to
8 the credit of the water infrastructure fund.

Insert
F.A.#1
(2) 9 SECTION 8. Section 17.921, Water Code, is amended by

10 amending Subdivision (1) and adding Subdivisions (6), (7), and (8)
11 to read as follows:

12 (1) "Economically distressed area" means an area in:

13 (A) a border county in which:

14 (i) [(A)] water supply or sewer services
15 are inadequate to meet minimal needs of residential users as
16 defined by board rules;

17 (ii) [(B)] financial resources are
18 inadequate to provide water supply or sewer services that will
19 satisfy those needs; and

20 (iii) [(C)] an established residential
21 subdivision was located on June 1, 1989, as determined by the board;

22 or

23 (B) a nonborder county in which:

24 (i) water supply or sewer services are
25 inadequate to meet minimal needs of residential users as defined by
26 board rules;

27 (ii) financial resources are inadequate to

1 provide water supply or sewer services that will satisfy those
2 needs; and

3 (iii) an established residential
4 subdivision was located on June 1, 2005, as determined by the board.

5 (6) "Border county" means a county that is located
6 adjacent to an international border or a county any part of which is
7 within 62 miles of an international border.

8 (7) "Nonborder county" means a county that is not a
9 border county.

10 (8) "Economically distressed areas account" means the
11 economically distressed areas account in the Texas Water
12 Development Fund or the economically distressed areas program
13 account in the Texas Water Development Fund II.

14 SECTION 9. Section 17.922, Water Code, is amended to read as
15 follows:

16 Sec. 17.922. FINANCIAL ASSISTANCE. (a) The economically
17 distressed areas account may be used by the board to provide
18 financial assistance to political subdivisions for the
19 construction, acquisition, or improvement of water supply and sewer
20 services, including providing funds from the account for the
21 state's participation in federal programs that provide assistance
22 to political subdivisions. The board may provide assistance to
23 political subdivisions in:

24 (1) border counties in an amount not to exceed the sum
25 of:

26 (A) the proceeds of the sale of bonds authorized
27 by Section 49-d-8, Article III, Texas Constitution, and the

1 interest earned on those proceeds;

2 (B) \$250 million of the proceeds of the sale of
3 bonds authorized by Section 49-d-10, Article III, Texas
4 Constitution, and the interest earned on those proceeds; and

5 (C) any other funds deposited in the account; and

6 (2) nonborder counties in an amount not to exceed the
7 sum of:

8 (A) \$250 million of the proceeds of the sale of
9 bonds authorized by Section 49-d-10, Article III, Texas
10 Constitution, and the interest earned on those proceeds; and

11 (B) any other funds deposited in the account
12 after September 1, 2005.

13 (b) To the extent practicable, the board shall use the funds
14 in the economically distressed areas account in conjunction with
15 the other financial assistance available through the board to
16 encourage the use of cost-effective water supply and wastewater
17 systems, including regional systems, to maximize the long-term
18 economic development of counties eligible for financial assistance
19 under the economically distressed areas program. Any savings
20 derived from the construction of a regional system that includes or
21 serves an economically distressed area project shall be factored
22 into the board's determination of financial assistance for the
23 economically distressed area in a manner that assures the
24 economically distressed area receives appropriate benefits from
25 the savings. In no event shall financial assistance provided from
26 the economically distressed areas account be used to provide water
27 supply or wastewater service to any area that is not [defined as] an

1 ~~economically distressed area [pursuant to Section 17.921(1)(A) of~~
2 ~~this code].~~

7 Subsections (b), (c), and (d),

3 SECTION ~~10.~~ ¹ Sections 17.927(b), (c), and (d), Water Code,
4 are amended to read as follows:

5 (b) The application and plan must include:

6 (1) the name of the political subdivision and its
7 principal officers ~~[comply with board requirements];~~

8 (2) a citation of the law under which the political
9 subdivision was created and operates ~~[describe in detail the method~~
10 ~~for delivering water supply and sewer services and the persons to~~
11 ~~whom the services will be provided];~~

12 (3) a project plan, prepared and certified by an
13 engineer registered to practice in this state, that must:

14 (A) describe the proposed planning, design, and
15 construction activities necessary to provide water supply and sewer
16 services that meet minimum state standards; and 5/6

17 (B) identify the households to which the water
18 supply and sewer services will be provided ~~[describe the method for~~
19 ~~complying with minimum state standards for water supply and sewer~~
20 ~~services adopted by the board under Section 16.342 of this code];~~

21 (4) ~~[include]~~ a budget that estimates the total cost
22 of providing water supply and sewer services to the economically
23 distressed area and a proposed schedule and method for repayment of
24 financial assistance consistent with board rules and guidelines;

25 (5) a description of the ~~[describe]~~ existing water
26 supply and sewer facilities located in the ~~[economically~~
27 ~~distressed]~~ area to be served by the proposed project, including a

1 statement ~~[and include with the description]~~

2 ~~[(A) the county map required by Section 366.036,~~
3 ~~Health and Safety Code, or~~

4 ~~[(B) a document]~~ prepared and certified by an
5 engineer registered to practice in this state that the facilities
6 do not meet minimum state standards ~~[describing the plan for~~
7 ~~providing water supply and sewer services to the economically~~
8 ~~distressed area];~~

9 (6) documentation ~~[provide proof]~~ that the
10 appropriate political subdivision has adopted the model rules
11 developed under Section 16.343 ~~[of this code];~~

12 (7) ~~[include]~~ information identifying the median
13 household income for the area to be served by the proposed project
14 ~~[on the ability of potential customers to pay for the services~~
15 ~~provided by the project including composite data prepared by the~~
16 ~~applicant pursuant to board rules and guidelines from surveys of~~ 6/7
17 ~~those potential customers covering income, family size, personal~~
18 ~~expenses, employment status, and other information required by~~
19 ~~board rule]; and~~

20 (8) the total amount of assistance requested from the
21 economically distressed areas account ~~[include an estimate of the~~
22 ~~per household cost of providing the services contemplated by the~~
23 ~~project with supporting data,~~

24 ~~[(9) describe the procedures to be used to collect~~
25 ~~money from residents who use the proposed water supply and sewer~~
26 ~~services including procedures for collection of delinquent~~
27 ~~accounts,~~

1 ~~[(10) include a requirement that a contractor who~~
2 ~~agrees to acquire, construct, extend, or provide water supply and~~
3 ~~sewer services executes a performance bond in the amount of 100~~
4 ~~percent of the contract price,~~

5 ~~[(11) contain an agreement to comply with applicable~~
6 ~~procurement procedures in contract awards for water supply and~~
7 ~~sewer services,~~

8 ~~[(12) if located in the service area of a retail public~~
9 ~~utility or public utility that has a certificate of public~~
10 ~~convenience and necessity under Chapter 13 of this code, include a~~
11 ~~document in the form of an affidavit signed by the chief executive~~
12 ~~officer of the utility, which shall cooperate with the political~~
13 ~~subdivision, stating that the utility does not object to the~~
14 ~~construction and operation of the services and facilities in its~~
15 ~~service area,~~

16 ~~[(13) include a map of the economically distressed~~ 7/8
17 ~~area together with supporting information relating to dwellings in~~
18 ~~the area,~~

19 ~~[(14) describe in detail the methods for incorporating~~
20 ~~water conservation into the provision of water and sewer services~~
21 ~~to the economically distressed area,~~

22 ~~[(15) include, on request of the board, a written~~
23 ~~determination by the commission on the managerial, financial, and~~
24 ~~technical capabilities of the applicant to operate the system for~~
25 ~~which assistance is being requested, and~~

26 ~~[(16) include any other information required by the~~
27 ~~board].~~

1 (c) Before the board approves the application or provides
2 any funds under an application, it shall require an applicant to
3 adopt a program of water conservation for the more effective use of
4 water that meets the criteria established under Section 17.125. [If
5 ~~an applicant is a district or nonprofit water supply corporation,~~
6 ~~the applicant must include with the application proof that the~~
7 ~~appropriate county and municipalities have given their consent.~~] *g*

8 (d) Before considering an application, the board may
9 require the applicant to:

10 (1) provide documentation to the executive
11 administrator sufficient to allow review of the applicant's
12 managerial, financial, and technical capabilities to operate the
13 system for which assistance is being requested;

14 (2) provide a written determination by the commission
15 on the applicant's managerial, financial, and technical
16 capabilities to operate the system for which assistance is being *8/9*
17 requested;

18 (3) request that the comptroller perform a financial
19 management review of the applicant and, if the review is performed,
20 provide the board with the results of the review; or

21 (4) provide any other information required by the
22 board or the executive administrator. *g* [In an application to the
23 ~~board for financial assistance for a water supply project or for~~
24 ~~sewer services, the applicant shall include:~~

25 ~~[(1) the name of the political subdivision and its~~
26 ~~principal officers,~~

27 ~~[(2) a citation of the law under which the political~~

1 ~~subdivision operates and was created,~~

2 ~~[(3) a description of the water supply project or the~~
3 ~~sewer services for which the financial assistance will be used,~~

4 ~~[(4) the estimated total cost of the water supply~~
5 ~~project or sewer services construction,~~

6 ~~[(5) the amount of state financial assistance~~
7 ~~requested,~~

8 ~~[(6) the plan for repaying the financial assistance~~
9 ~~provided for the water supply project or sewer services, and~~

10 ~~[(7) any other information the board requires.]~~

11 ⁸ SECTION ~~N~~. Section 17.929, Water Code, is amended to read
12 as follows:

13 Sec. 17.929. CONSIDERATIONS IN PASSING ON APPLICATION. (a)
14 In passing on an application for financial assistance, the board
15 shall consider:

16 (1) the need of the economically distressed area to be
17 served by the water supply and sewer services in relation to the
18 need of other political subdivisions requiring financial
19 assistance under this subchapter and the relative costs and
20 benefits of all applications;

21 (2) the availability to the area to be served by the
22 project of revenue or financial assistance from alternative sources
23 for the payment of the cost of the proposed project ~~[efforts by the~~
24 ~~residents of the economically distressed area to provide necessary~~
25 ~~water supply and sewer services];~~

26 (3) ~~[the proposed use of labor from inside the~~
27 ~~political subdivision to perform contracts for providing water~~

1 ~~supply and sewer services,~~

2 ~~[(4) the relationship of the proposed water supply and~~
3 ~~sewer services to minimum state standards for water supply and~~
4 ~~sewer services adopted under Section 16.343 of this code,~~

5 ~~[(5)]~~ the financing of the proposed water supply and
6 sewer project including consideration of:

7 (A) the budget and repayment schedule submitted
8 under Section 17.927(b)(4) ~~[of this code]~~;

9 (B) other items included in the application
10 relating to financing; and

11 (C) other financial information and data
12 available to the board;

13 (4) ~~[(6) whether the applicant has proposed methods~~
14 ~~for incorporating water conservation into the provision of water~~
15 ~~and sewer services to the economically distressed area,~~

16 ~~[(7)]~~ whether the county and other appropriate 10/11
17 political subdivisions have ~~[has]~~ adopted model rules pursuant to
18 Section 16.343 ~~[of this code]~~ and the manner of enforcement of model
19 rules;

20 ~~[(8) the feasibility of creating a conservation and~~
21 ~~reclamation district under Article XVI, Section 59, of the Texas~~
22 ~~Constitution, to provide the services and finance the water supply~~
23 ~~and sewer services covered by the application with district bonds~~
24 ~~issued and sold through the regular bond market,~~

25 ~~[(9) the percentage of the total project cost that the~~
26 ~~financial assistance will comprise,]~~ and

27 (5) ~~[(10)]~~ the feasibility of achieving cost savings

1 by providing a regional facility for water supply or wastewater
2 service and the feasibility of financing the facility by using
3 funds from the economically distressed areas account or any other
4 financial assistance.

5 (b) At the time an application for financial assistance is
6 considered, the board also must find that the area to be served by a
7 proposed project has a median household income that is not greater
8 than 75 percent of the median state household income [~~an average per~~
9 ~~capita income that is at least 25 percent below the state average~~]
10 for the most recent year [~~three consecutive years~~] for which
11 statistics are available.

12 SECTION 12. ^{g Subsection (b),} Section 17.930 ~~(b)~~, Water Code, is amended to
13 read as follows:

14 (b) After making the considerations provided by Section
15 17.929 [~~of this code~~], the board by resolution shall:

16 (1) approve the plan and application as submitted; / 11/12
17 (2) approve the plan and application subject to the
18 requirements identified by the board or commission for the
19 applicant to obtain the managerial, financial, and technical
20 capabilities to operate the system and any other requirements,
21 including training under Subchapter M, the board considers
22 appropriate;

23 (3) deny the application and identify the requirements
24 or remedial steps the applicant must complete before the applicant
25 may be reconsidered for financial assistance;

26 (4) if the board finds that the applicant will be
27 unable to obtain the managerial, financial, or technical

1 capabilities to build and operate a system, deny the application
2 and issue a determination that a service provider other than the
3 applicant is necessary or appropriate to undertake the proposed
4 project; or

5 (5) deny the application.

6 SECTION 13. ^{10 Subsections (a) and (c),} ~~Sections 17.933(a) and (c),~~ Water Code, are
7 amended to read as follows:

8 (a) The board may use money in the economically distressed
9 areas account to provide financial assistance to a political
10 subdivision [~~to be repaid~~] in the form of a loan, including a loan
11 with zero interest, grant, or other type of financial assistance to
12 be determined [~~, manner, and time provided~~] by the board [~~rules and~~
13 ~~in the agreement between the board and the political subdivision~~]
14 taking into consideration the information provided by Section
15 17.927(b)(7) [~~of this code~~].

16 (c) The total amount of financial assistance provided by the ^{12/13}
17 board to political subdivisions under this subchapter from
18 state-issued bonds for which repayment is not required may not
19 exceed at any time 90 percent of the total principal amount of
20 issued and unissued bonds authorized under Article III, Sections
21 [~~Section~~] 49-d-7 and 49-d-10, of the Texas Constitution, for
22 purposes of this subchapter plus outstanding interest on those
23 bonds.

F.A.#11
(3)
24 SECTION 14. ^{Subsection (c),} ~~Section 17.936(c),~~ Water Code, is amended to
25 read as follows:

26 (c) This section applies only to property located in:

27 (1) the unincorporated area of a border or non-border

1 ~~[an affected] county[, as defined by Section 16.341]; and~~
2 ~~(2) an economically distressed area[, as defined by~~
3 ~~Section 16.341].~~

Insert
F.A.#14
(4) → SECTION 15. ~~Section 17.952, Water Code, is amended to read~~
4 as follows:

5
6 Sec. 17.952. ISSUANCE OF WATER FINANCIAL ASSISTANCE
7 BONDS. The board by resolution may provide for the issuance of
8 water financial assistance bonds, which shall be general obligation
9 bonds of the state, in an aggregate principal amount not to exceed
10 the principal amount authorized to be issued by Section 49-d-8 or
11 49-d-10, Article III, Texas Constitution.

12 ^{12 Subsection (a),}
SECTION 16. ~~Section 17.993(a),~~ Water Code, is amended to
13 read as follows:

14 (a) The commission or the board may evaluate whether an
15 operating entity needs training if the operating entity:

16 (1) requests financial assistance or an amendment to
17 the project plan or budget ~~[additional funding];~~

18 (2) requests more time to meet its obligations under a
19 repayment schedule;

20 (3) does not provide required documentation; or

21 (4) has a history of compliance problems, as
22 determined by the commission.

Insert
F.A.#14
(5) → SECTION 17. ¹⁴Section 232.071, Local Government Code, is
24 amended to read as follows:

25 Sec. 232.071. APPLICABILITY. This subchapter applies only
26 to the subdivision of land located:

27 (1) outside the corporate limits of a municipality;

1 and

2 (2) in a county:

3 (A) in which is located a political subdivision
4 that is eligible for and has applied for financial assistance under
5 Section 15.407, Water Code, or Subchapter K, Chapter 17, Water
6 Code; and

7 (B) to which Subchapter B does not apply.

8 SECTION 18. ¹⁵ Subsection (i), ¹⁶ Subsection (f), Section ¹⁷ through
~~Sections 15.407, 16.343, 17.923, 17.924,~~
¹⁸ Subsection (g), ¹⁹ Section ²⁰ Sections
9 ~~17.925, 17.926, and 17.933,~~ Water Code, are repealed. 14/15

10 SECTION 19. The changes in law made by this Act apply only
11 to an application for financial assistance pending or filed on or
12 after the effective date of this Act.

F.A. #2
13 SECTION 20. (a) The Texas Commission on Environmental
14 Quality shall adopt rules to implement Section 17.087, Water Code,
15 as added by this Act, not later than March 1, 2006.

16 (b) The fee required by Section 17.087, Water Code, as added
17 by this Act, applies to retail water or sewer utility service
18 provided on or after April 1, 2006.

19 SECTION 21. This Act takes effect on the date on which the
20 constitutional amendment proposed by the 79th Legislature, Regular
21 Session, 2005, providing for the issuance of additional general
22 obligation bonds by the Texas Water Development Board in an amount
23 not to exceed \$500 million to provide assistance to economically
24 distressed areas, takes effect. If that amendment is not approved
25 by the voters, this Act has no effect.

ADOPTED

MAY 03 2005

FLOOR AMENDMENT NO. 1

BY: Luis
Secretary of the Senate

Amend C.S.S.B. 964 (Committee Printing) as follows:

(1) Strike SECTIONS 4 and 5 and substitute the following:

SECTION ² ~~V.~~ Section 16.341, Water Code ^{are} ~~is~~ amended ~~by~~
~~amending~~ Subdivisions (1) and (2) to read as follows:

(1) "Affected county" means a county[+]

[~~(A)~~] that has an economically distressed area
which has a median household income that is not greater than 75
percent of the median state household income [~~a per capita~~
~~income that averaged 25 percent below the state average for the~~
~~most recent three consecutive years for which statistics are~~
~~available and an unemployment rate that averaged 25 percent~~
~~above the state average for the most recent three consecutive~~
~~years for which statistics are available; or~~

[~~(B) that is adjacent to an international border~~]. / 1/2

(2) "Economically distressed area" has the meaning
assigned by Section 17.921 [~~means an area in which:~~

[~~(A) water supply or sewer services are~~
~~inadequate to meet minimal needs of residential users as defined~~
~~by board rules;~~

[~~(B) financial resources are inadequate to~~
~~provide water supply or sewer services that will satisfy those~~
~~needs; and~~

[~~(C) an established residential subdivision was~~
~~located on June 1, 1989, as determined by the board~~].

SECTION ³ ~~V.~~ Subsections (b) and (c) ^{1, 2} of Section 16.343,
Water Code, are amended to read as follows:

(b) The model rules must:

(1) assure that adequate drinking water is available
to the residential areas in accordance with Chapter 341, Health

Insert (cont)

1 and Safety Code, and the Rules and Regulations for Public Water
2 Systems and the Drinking Water Standards Governing Water Quality
3 and Reporting Requirements for Public Water Supply Systems
4 adopted by the commission [~~Texas Board of Health~~] and other law
5 and rules applicable to drinking water; and

6 (2) provide criteria applicable to tracts that were
7 divided into two or more parts to lay out a subdivision and were
8 not platted or recorded before September 1, 2005 [~~1989~~].

9 (c) The model rules must:

10 (1) assure that adequate sewer facilities are
11 available to the residential areas through either septic tanks
12 or an organized sewage disposal system that is a publicly or
13 privately owned system for the collection, treatment, and 213
14 disposal of sewage operated in accordance with the terms and
15 conditions of a valid waste discharge permit issued by the
16 commission or private sewage facilities in accordance with
17 Chapter 366, Health and Safety Code, and the Construction
18 Standards for On-Site Sewerage Facilities adopted by the
19 commission and other law and rules applicable to sewage
20 facilities; and

21 (2) provide criteria applicable to tracts that were
22 divided into two or more parts to lay out a subdivision and were
23 not platted or recorded before September 1, 2005 [~~1989~~].

24 ✓(2) Strike SECTIONS 8 and 9 and substitute the following:

*Insert
F.A.#1
(2)
at
p.8, l.9*
25 SECTION ⁵~~8~~. Section 17.921, Water Code, is amended by
26 amending subdivision (1) and adding subdivision (6) to read as
27 follows:

28 (1) "Economically distressed area" means an area in
29 which:

30 (A) water supply or sewer services are inadequate
31 to meet minimal needs of residential users as defined by board

Insert (cont)

1 rules;

2 (B) financial resources are inadequate to provide
3 water supply or sewer services that will satisfy those needs;
4 and

5 (C) an established residential subdivision was
6 located on June 1, 2005 [~~1989~~], as determined by the board..

7 (6) "Economically distressed areas account" means the
8 economically distressed areas account in the Texas Water
9 Development Fund or the economically distressed areas program
10 account in the Texas Water Development Fund II.

11 SECTION ^{6 Subsection (b)} ~~14~~ Section 17.922 ~~(b)~~, Water Code, is amended to
12 read as follows:

13 (b) To the extent practicable, the board shall use the
14 funds in the economically distressed areas account in
15 conjunction with the other financial assistance available
16 through the board to encourage the use of cost-effective water
17 supply and wastewater/systems, including regional systems, to
18 maximize the long-term economic development of counties eligible
19 for financial assistance under the economically distressed areas
20 program. Any savings derived from the construction of a
21 regional system that includes or serves an economically
22 distressed area project shall be factored into the board's
23 determination of financial assistance for the economically
24 distressed area in a manner that assures the economically
25 distressed area receives appropriate benefits from the savings.
26 In no event shall financial assistance provided from the
27 economically distressed areas account be used to provide water
28 supply or wastewater service to any area that is not ~~[defined~~
29 ~~as]~~ an economically distressed area ~~[pursuant to Section~~
30 ~~17.921(1)(A) of this code]~~.

31 (3) Strike SECTION 14 of the bill.

1 (4) Strike SECTION 15 of the bill and substitute the
2 following:

3 SECTION ¹¹~~16~~. Section 17.952, Water Code, is amended to read
4 as follows:

5 Sec. 17.952. ISSUANCE OF WATER FINANCIAL ASSISTANCE BONDS.
6 The board by resolution may provide for the issuance of water
7 financial assistance bonds, which shall be general obligation
8 bonds of the state, in an aggregate principal amount not to
9 exceed the principal amount authorized to be issued by ^{the}~~Section~~
10 ~~49-d-8, Article III,~~ ^{the} Texas Constitution.

11 (5) Adding the following appropriately numbered SECTION to
12 the bill and renumbering subsequent SECTIONS of the bill as
13 appropriate:

14 SECTION ^{Subsection (a),} ~~13~~ ^{13/4}. Section 212.0105, Local Government Code, is
15 amended to read as follows:

16 ~~Sec. 212.0105. WATER AND SEWER REQUIREMENTS IN CERTAIN~~
17 ~~COUNTIES~~ (a) This section applies only to a person who:

18 (1) is the owner of a tract of land in ~~[either:~~
19 ~~[(A) a county that is contiguous to an~~
20 ~~international border; or~~

21 ~~[(B)]~~ a county in which a political subdivision
22 that is eligible for and has applied for ~~[has received]~~
23 financial assistance through Subchapter K, Chapter 17, Water
24 Code;

25 (2) divides the tract in a manner that creates any
26 lots that are intended for residential purposes and are five
27 acres or less; and

28 (3) is required under this subchapter to have a plat
29 prepared for the subdivision.

FLOOR AMENDMENT NO. 2

BY: Stegler

1 Amend C.S.S.B. 964 (Committee Printing) by striking
2 ☒ SECTIONS ☒ 2, ☒ 3, ☒ 7 and ☒ 20 and renumbering the remaining SECTIONS
3 appropriately.

ADOPTED

MAY 03 2005

Latoy Spaw
Secretary of the Senate

I certify this to be a true and correct
copy of the indicated document as
referred or transmitted to committee.

Chief Clerk of the House

By: Lucio, Zaffirini
Hinojosa

S.B. No. 964

A BILL TO BE ENTITLED

AN ACT

relating to the authorization, administration, and funding of the
program to provide financial assistance for the construction,
acquisition, or improvement of water supply and sewer services for
economically distressed areas.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subsection (a), Section 15.407, Water Code, is
amended to read as follows:

(a) In this section, "economically distressed area" and
"political subdivision" have the meanings assigned by Section
17.921 [~~16.341 of this code~~].

SECTION 2. Subdivisions (1) and (2), Section 16.341, Water
Code, are amended to read as follows:

(1) "Affected county" means a county[+
[~~(A)~~] that has an economically distressed area
which has a median household income that is not greater than 75
percent of the median state household income [~~a per capita income~~
~~that averaged 25 percent below the state average for the most recent~~
~~three consecutive years for which statistics are available and an~~
~~unemployment rate that averaged 25 percent above the state average~~
~~for the most recent three consecutive years for which statistics~~
~~are available, or~~
[~~(B)~~ that is adjacent to an international
border].

(2) "Economically distressed area" has the meaning assigned by Section 17.921 ~~[means an area in which:~~

~~[(A) water supply or sewer services are inadequate to meet minimal needs of residential users as defined by board rules,~~

~~[(B) financial resources are inadequate to provide water supply or sewer services that will satisfy those needs, and~~

~~[(C) an established residential subdivision was located on June 1, 1989, as determined by the board].~~

SECTION 3. Subsections (b) and (c), Section 16.343, Water Code, are amended to read as follows:

(b) The model rules must:

(1) assure that adequate drinking water is available to the residential areas in accordance with Chapter 341, Health and Safety Code, and the Rules and Regulations for Public Water Systems and the Drinking Water Standards Governing Water Quality and Reporting Requirements for Public Water Supply Systems adopted by the commission ~~[Texas Board of Health]~~ and other law and rules applicable to drinking water; and

(2) provide criteria applicable to tracts that were divided into two or more parts to lay out a subdivision and were not platted or recorded before September 1, 2005 ~~[1989]~~.

(c) The model rules must:

(1) assure that adequate sewer facilities are available to the residential areas through either septic tanks or an organized sewage disposal system that is a publicly or privately

1 owned system for the collection, treatment, and disposal of sewage
2 operated in accordance with the terms and conditions of a valid
3 waste discharge permit issued by the commission or private sewage
4 facilities in accordance with Chapter 366, Health and Safety Code,
5 and the Construction Standards for On-Site Sewerage Facilities
6 adopted by the commission and other law and rules applicable to
7 sewage facilities; and

8 (2) provide criteria applicable to tracts that were
9 divided into two or more parts to lay out a subdivision and were not
10 platted or recorded before September 1, 2005 [~~1989~~].

11 SECTION 4. Section 17.0112, Water Code, is amended to read
12 as follows:

13 Sec. 17.0112. AUTHORIZATION OF CERTAIN BONDS FOR FINANCIAL
14 ASSISTANCE. (a) The board may issue not more than \$25 million in
15 bonds dedicated under Section 17.0111 of this code and may issue not
16 more than \$50 million in bonds authorized under Section 49-d-10,
17 Article III, Texas Constitution, during a fiscal year to provide
18 financial assistance for water supply and sewer services as
19 provided under Subchapter K of this chapter.

20 (b) On request of the board, the bond review board by
21 resolution may waive during any state fiscal year the limits
22 [~~limit~~] provided by Subsection (a) [~~of this section~~] and authorize
23 the board to issue an additional amount of bonds if the bond review
24 board finds that the amount of bonds authorized for that state
25 fiscal year has been exhausted or there is not a sufficient amount
26 of bonds to meet needs of the program during the state fiscal year
27 and that the public health and safety require immediate

1 authorization of additional bonds. Before the bond review board
2 adopts such a resolution, it shall give notice and hold a hearing to
3 determine whether the limits should be waived and the authorization
4 given.

5 SECTION 5. Section 17.921, Water Code, is amended by
6 amending Subdivision (1) and adding Subdivision (6) to read as
7 follows:

8 (1) "Economically distressed area" means an area in
9 which:

10 (A) water supply or sewer services are inadequate
11 to meet minimal needs of residential users as defined by board
12 rules;

13 (B) financial resources are inadequate to
14 provide water supply or sewer services that will satisfy those
15 needs; and

16 (C) an established residential subdivision was
17 located on June 1, 2005 [~~1989~~], as determined by the board.

18 (6) "Economically distressed areas account" means the
19 economically distressed areas account in the Texas Water
20 Development Fund or the economically distressed areas program
21 account in the Texas Water Development Fund II.

22 SECTION 6. Subsection (b), Section 17.922, Water Code, is
23 amended to read as follows:

24 (b) To the extent practicable, the board shall use the funds
25 in the economically distressed areas account in conjunction with
26 the other financial assistance available through the board to
27 encourage the use of cost-effective water supply and wastewater

1 systems, including regional systems, to maximize the long-term
2 economic development of counties eligible for financial assistance
3 under the economically distressed areas program. Any savings
4 derived from the construction of a regional system that includes or
5 serves an economically distressed area project shall be factored
6 into the board's determination of financial assistance for the
7 economically distressed area in a manner that assures the
8 economically distressed area receives appropriate benefits from
9 the savings. In no event shall financial assistance provided from
10 the economically distressed areas account be used to provide water
11 supply or wastewater service to any area that is not ~~[defined as]~~ an
12 economically distressed area ~~[pursuant to Section 17.921(1)(A) of~~
13 ~~this code]~~.

14 SECTION 7. Subsections (b), (c), and (d), Section 17.927,
15 Water Code, are amended to read as follows:

16 (b) The application and plan must include:

17 (1) the name of the political subdivision and its
18 principal officers ~~[comply with board requirements];~~

19 (2) a citation of the law under which the political
20 subdivision was created and operates ~~[describe in detail the method~~
21 ~~for delivering water supply and sewer services and the persons to~~
22 ~~whom the services will be provided];~~

23 (3) a project plan, prepared and certified by an
24 engineer registered to practice in this state, that must:

25 (A) describe the proposed planning, design, and
26 construction activities necessary to provide water supply and sewer
27 services that meet minimum state standards; and

(B) identify the households to which the water supply and sewer services will be provided ~~[describe the method for complying with minimum state standards for water supply and sewer services adopted by the board under Section 16.342 of this code];~~

(4) ~~[include]~~ a budget that estimates the total cost of providing water supply and sewer services to the economically distressed area and a proposed schedule and method for repayment of financial assistance consistent with board rules and guidelines;

(5) a description of the ~~[describe]~~ existing water supply and sewer facilities located in the ~~[economically distressed]~~ area to be served by the proposed project, including a statement ~~[and include with the description:~~

~~[(A) the county map required by Section 366.036, Health and Safety Code, or~~

~~[(B) a document] prepared and certified by an engineer registered to practice in this state that the facilities do not meet minimum state standards [describing the plan for providing water supply and sewer services to the economically distressed area];~~

(6) documentation ~~[provide proof]~~ that the appropriate political subdivision has adopted the model rules developed under Section 16.343 ~~[of this code];~~

(7) ~~[include]~~ information identifying the median household income for the area to be served by the proposed project ~~[on the ability of potential customers to pay for the services provided by the project including composite data prepared by the applicant pursuant to board rules and guidelines from surveys of~~

1 ~~those potential customers covering income, family size, personal~~
2 ~~expenses, employment status, and other information required by~~
3 ~~board rule]; and~~

4 (8) the total amount of assistance requested from the
5 economically distressed areas account ~~[include an estimate of the~~
6 ~~per household cost of providing the services contemplated by the~~
7 ~~project with supporting data,~~

8 ~~[(9) describe the procedures to be used to collect~~
9 ~~money from residents who use the proposed water supply and sewer~~
10 ~~services including procedures for collection of delinquent~~
11 ~~accounts,~~

12 ~~[(10) include a requirement that a contractor who~~
13 ~~agrees to acquire, construct, extend, or provide water supply and~~
14 ~~sewer services executes a performance bond in the amount of 100~~
15 ~~percent of the contract price,~~

16 ~~[(11) contain an agreement to comply with applicable~~
17 ~~procurement procedures in contract awards for water supply and~~
18 ~~sewer services,~~

19 ~~[(12) if located in the service area of a retail public~~
20 ~~utility or public utility that has a certificate of public~~
21 ~~convenience and necessity under Chapter 13 of this code, include a~~
22 ~~document in the form of an affidavit signed by the chief executive~~
23 ~~officer of the utility, which shall cooperate with the political~~
24 ~~subdivision, stating that the utility does not object to the~~
25 ~~construction and operation of the services and facilities in its~~
26 ~~service area,~~

27 ~~[(13) include a map of the economically distressed~~

1 ~~area together with supporting information relating to dwellings in~~
2 ~~the area,~~

3 ~~[(14) describe in detail the methods for incorporating~~
4 ~~water conservation into the provision of water and sewer services~~
5 ~~to the economically distressed area,~~

6 ~~[(15) include, on request of the board, a written~~
7 ~~determination by the commission on the managerial, financial, and~~
8 ~~technical capabilities of the applicant to operate the system for~~
9 ~~which assistance is being requested, and~~

10 ~~[(16) include any other information required by the~~
11 ~~board].~~

12 (c) Before the board approves the application or provides
13 any funds under an application, it shall require an applicant to
14 adopt a program of water conservation for the more effective use of
15 water that meets the criteria established under Section 17.125 [~~if~~
16 ~~an applicant is a district or nonprofit water supply corporation,~~
17 ~~the applicant must include with the application proof that the~~
18 ~~appropriate county and municipalities have given their consent)].~~

19 (d) Before considering an application, the board may
20 require the applicant to:

21 (1) provide documentation to the executive
22 administrator sufficient to allow review of the applicant's
23 managerial, financial, and technical capabilities to operate the
24 system for which assistance is being requested;

25 (2) provide a written determination by the commission
26 on the applicant's managerial, financial, and technical
27 capabilities to operate the system for which assistance is being

1 requested;

2 (3) request that the comptroller perform a financial
3 management review of the applicant and, if the review is performed,
4 provide the board with the results of the review; or

5 (4) provide any other information required by the
6 board or the executive administrator [~~In an application to the~~
7 ~~board for financial assistance for a water supply project or for~~
8 ~~sewer services, the applicant shall include:~~

9 [~~(1) the name of the political subdivision and its~~
10 ~~principal officers,~~

11 [~~(2) a citation of the law under which the political~~
12 ~~subdivision operates and was created,~~

13 [~~(3) a description of the water supply project or the~~
14 ~~sewer services for which the financial assistance will be used,~~

15 [~~(4) the estimated total cost of the water supply~~
16 ~~project or sewer services construction,~~

17 [~~(5) the amount of state financial assistance~~
18 ~~requested,~~

19 [~~(6) the plan for repaying the financial assistance~~
20 ~~provided for the water supply project or sewer services, and~~

21 [~~(7) any other information the board requires~~].

22 SECTION 8. Section 17.929, Water Code, is amended to read as
23 follows:

24 Sec. 17.929. CONSIDERATIONS IN PASSING ON APPLICATION.

25 (a) In passing on an application for financial assistance, the
26 board shall consider:

27 (1) the need of the economically distressed area to be

1 served by the water supply and sewer services in relation to the
2 need of other political subdivisions requiring financial
3 assistance under this subchapter and the relative costs and
4 benefits of all applications;

5 (2) the availability to the area to be served by the
6 project of revenue or financial assistance from alternative sources
7 for the payment of the cost of the proposed project ~~[efforts by the~~
8 ~~residents of the economically distressed area to provide necessary~~
9 ~~water supply and sewer services]~~;

10 (3) ~~[the proposed use of labor from inside the~~
11 ~~political subdivision to perform contracts for providing water~~
12 ~~supply and sewer services,~~

13 ~~[4) the relationship of the proposed water supply and~~
14 ~~sewer services to minimum state standards for water supply and~~
15 ~~sewer services adopted under Section 16.343 of this code,~~

16 ~~[5)]~~ the financing of the proposed water supply and
17 sewer project including consideration of:

18 (A) the budget and repayment schedule submitted
19 under Section 17.927(b)(4) ~~[of this code]~~;

20 (B) other items included in the application
21 relating to financing; and

22 (C) other financial information and data
23 available to the board;

24 (4) ~~[6) whether the applicant has proposed methods~~
25 ~~for incorporating water conservation into the provision of water~~
26 ~~and sewer services to the economically distressed area,~~

27 ~~[7)]~~ whether the county and other appropriate

1 political subdivisions have ~~[has]~~ adopted model rules pursuant to
2 Section 16.343 ~~[of this code]~~ and the manner of enforcement of model
3 rules;

4 ~~[(8) the feasibility of creating a conservation and~~
5 ~~reclamation district under Article XVI, Section 59, of the Texas~~
6 ~~Constitution, to provide the services and finance the water supply~~
7 ~~and sewer services covered by the application with district bonds~~
8 ~~issued and sold through the regular bond market,~~

9 ~~[(9) the percentage of the total project cost that the~~
10 ~~financial assistance will comprise,] and~~

11 (5) ~~[(10)]~~ the feasibility of achieving cost savings
12 by providing a regional facility for water supply or wastewater
13 service and the feasibility of financing the facility by using
14 funds from the economically distressed areas account or any other
15 financial assistance.

16 (b) At the time an application for financial assistance is
17 considered, the board also must find that the area to be served by a
18 proposed project has a median household income that is not greater
19 than 75 percent of the median state household income ~~[an average per~~
20 ~~capita income that is at least 25 percent below the state average]~~
21 for the most recent year ~~[three consecutive years]~~ for which
22 statistics are available.

23 SECTION 9. Subsection (b), Section 17.930, Water Code, is
24 amended to read as follows:

25 (b) After making the considerations provided by Section
26 17.929 ~~[of this code]~~, the board by resolution shall:

27 (1) approve the plan and application as submitted;

1 (2) approve the plan and application subject to the
2 requirements identified by the board or commission for the
3 applicant to obtain the managerial, financial, and technical
4 capabilities to operate the system and any other requirements,
5 including training under Subchapter M, the board considers
6 appropriate;

7 (3) deny the application and identify the requirements
8 or remedial steps the applicant must complete before the applicant
9 may be reconsidered for financial assistance;

10 (4) if the board finds that the applicant will be
11 unable to obtain the managerial, financial, or technical
12 capabilities to build and operate a system, deny the application
13 and issue a determination that a service provider other than the
14 applicant is necessary or appropriate to undertake the proposed
15 project; or

16 (5) deny the application.

17 SECTION 10. Subsections (a) and (c), Section 17.933, Water
18 Code, are amended to read as follows:

19 (a) The board may use money in the economically distressed
20 areas account to provide financial assistance to a political
21 subdivision [~~to be repaid~~] in the form of a loan, including a loan
22 with zero interest, grant, or other type of financial assistance to
23 be determined[~~, manner, and time provided~~] by the board [~~rules and~~
24 ~~in the agreement between the board and the political subdivision~~]
25 taking into consideration the information provided by Section
26 17.927(b)(7) [~~of this code~~].

27 (c) The total amount of financial assistance provided by the

1 board to political subdivisions under this subchapter from
2 state-issued bonds for which repayment is not required may not
3 exceed at any time 90 percent of the total principal amount of
4 issued and unissued bonds authorized under Article III, Sections
5 ~~[Section]~~ 49-d-7 and 49-d-10, of the Texas Constitution, for
6 purposes of this subchapter plus outstanding interest on those
7 bonds.

8 SECTION 11. Section 17.952, Water Code, is amended to read
9 as follows:

10 Sec. 17.952. ISSUANCE OF WATER FINANCIAL ASSISTANCE BONDS.
11 The board by resolution may provide for the issuance of water
12 financial assistance bonds, which shall be general obligation bonds
13 of the state, in an aggregate principal amount not to exceed the
14 principal amount authorized to be issued by the ~~[Section 49-d-8,~~
15 ~~Article III,~~] Texas Constitution.

16 SECTION 12. Subsection (a), Section 17.993, Water Code, is
17 amended to read as follows:

18 (a) The commission or the board may evaluate whether an
19 operating entity needs training if the operating entity:

20 (1) requests financial assistance or an amendment to
21 the project plan or budget ~~[additional funding]~~;

22 (2) requests more time to meet its obligations under a
23 repayment schedule;

24 (3) does not provide required documentation; or

25 (4) has a history of compliance problems, as
26 determined by the commission.

27 SECTION 13. Subsection (a), Section 212.0105, Local

Government Code, is amended to read as follows:

(a) This section applies only to a person who:

(1) is the owner of a tract of land in ~~[either:~~

~~[(A) a county that is contiguous to an international border, or~~

~~[(B)] a county in which a political subdivision that is eligible for and has applied for [has received] financial assistance through Subchapter K, Chapter 17, Water Code;~~

(2) divides the tract in a manner that creates any lots that are intended for residential purposes and are five acres or less; and

(3) is required under this subchapter to have a plat prepared for the subdivision.

SECTION 14. Section 232.071, Local Government Code, is amended to read as follows:

Sec. 232.071. APPLICABILITY. This subchapter applies only to the subdivision of land located:

(1) outside the corporate limits of a municipality; and

(2) in a county:

(A) in which is located a political subdivision that is eligible for and has applied for financial assistance under Section 15.407, Water Code, or Subchapter K, Chapter 17, Water Code; and

(B) to which Subchapter B does not apply.

SECTION 15. Subsection (i), Section 15.407, Subsection (f), Section 16.343, Sections 17.923 through 17.926, and Subsection (g),

1 Section 17.933, Water Code, are repealed.

2 SECTION 16. The changes in law made by this Act apply only
3 to an application for financial assistance pending or filed on or
4 after the effective date of this Act.

5 SECTION 17. This Act takes effect on the date on which the
6 constitutional amendment proposed by the 79th Legislature, Regular
7 Session, 2005, providing for the issuance of additional general
8 obligation bonds by the Texas Water Development Board in an amount
9 not to exceed \$500 million to provide assistance to economically
10 distressed areas, takes effect. If that amendment is not approved
11 by the voters, this Act has no effect.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

April 15, 2005

TO: Honorable Eddie Lucio, Jr., Chair, Senate Committee on International Relations & Trade

FROM: John S. O'Brien, Deputy Director, Legislative Budget Board

IN RE: **SB964** by Lucio (Relating to the authorization, administration, and funding of the program to provide financial assistance for the construction, acquisition, or improvement of water supply and sewer services for economically distressed areas.), **Committee Report 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for SB964, Committee Report 1st House, Substituted: an impact of \$0 through the biennium ending August 31, 2007.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2006	\$0
2007	\$0
2008	\$0
2009	\$0
2010	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain from <i>Water Infrastructure Fund No. 302</i>	Probable Savings/(Cost) from <i>Water Infrastructure Fund No. 302</i>	Change in Number of State Employees from FY 2005
2006	\$97,359	(\$97,359)	2.0
2007	\$7,047,952	(\$7,047,952)	8.5
2008	\$12,095,904	(\$12,095,904)	17.0
2009	\$16,430,465	(\$16,430,464)	17.0
2010	\$20,368,934	(\$18,942,150)	17.0

Fiscal Analysis

The bill would modify current eligibility requirements for communities to qualify for funding under the Economically Distressed Areas Program (EDAP) operated by the Water Development Board, removing requirements linking eligibility to average per capita income, unemployment levels, and proximity to the international border and replacing them with a requirement based on median income. For a community to receive EDAP assistance, the county in which that community is located would have to have adopted the model subdivision rules in Water Code, § 16.343.

The bill would provide for the Texas Commission on Environmental Quality (TCEQ) to establish a fee

to be collected by retail public utilities to be deposited to the credit of the Water Infrastructure Fund No. 302. The amount of fees collected could not exceed two cents per day per customer. The fee could not be established until April 1, 2006, and proceeds could be used to pay debt service on bonds issued for the EDAP program and for other forms of financial assistance, such as facility planning.

Enactment of the bill would be contingent upon voter approval of a constitutional amendment proposed by the Seventy-ninth Legislature, Regular Session, 2005, providing for the issuance of \$500 million in additional general obligation bonds for EDAP assistance.

Methodology

This estimate assumes that \$50 million in EDAP general obligation bonds would be issued each fiscal year from 2007 thru 2016. It is assumed that the fee set by TCEQ and collected by retail public utilities would be set at a rate to cover the cost of debt service and facility planning costs each year and be paid out of the Water Infrastructure Fund No. 302. Debt service would cost \$4.3 million in fiscal year 2007, rising to \$16.9 million by fiscal year 2010. An additional \$2 million in facility planning grants would be made from proceeds of the Water Infrastructure Fund No. 302.

Because of the increase in activity in the EDAP program (an anticipated increase of 10 to 15 EDAP applications annually), the Water Development Board would require additional FTEs for program operations. Since fees in the bill could not be created until April 1, 2006, this estimate assumes that the first bonds would be issued in fiscal year 2007. Therefore, additional staff needs in fiscal year 2006 would be limited to one additional FTE and related costs to coordinate rules and program procedures. In fiscal year 2007, an additional 6.5 FTEs would be added to process applications and coordinate facility planning projects. In fiscal year 2008, an additional 8.5 FTEs would be added to provide capacity development services and handle the increased workload resulting from additional projects being started while other projects move into later stages of development. It is assumed that this staffing level would be maintained through fiscal year 2010.

Administrative costs to the Water Development Board would be \$97,359 in fiscal year 2006, \$713,392 in fiscal year 2007, and \$1,426,784 in future years. Because the bill provides for such administrative costs to be paid out of the Water Infrastructure Fund No. 302, this estimate assumes that the retail water and sewer utility fee would be set at a rate to cover administrative as well as debt service and facility planning costs.

Local Government Impact

Local governments throughout the state would be the beneficiaries of an additional \$50 million in funding for EDAP projects upon passage of the bill. There could be some costs to local governments and demonstrate sufficient managerial, financial, and technical assistance to operate the system for which the entity would be applying to the Water Development Board for funding. Any cost would be more than offset by assistance received from the EDAP program. However, an applicant not awarded a grant would be required to absorb such costs.

Source Agencies: 580 Water Development Board, 582 Commission on Environmental Quality

LBB Staff: JOB, CL, ZS, TL

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

April 12, 2005

TO: Honorable Eddie Lucio, Jr., Chair, Senate Committee on International Relations & Trade

FROM: John S. O'Brien, Deputy Director, Legislative Budget Board

IN RE: **SB964** by Lucio (Relating to the authorization, administration, and funding of the program to provide financial assistance for the construction, acquisition, or improvement of water supply and sewer services for economically distressed areas.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for SB964, As Introduced: a negative impact of (\$905,859) through the biennium ending August 31, 2007.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2006	(\$192,467)
2007	(\$713,392)
2008	(\$1,426,784)
2009	(\$1,426,784)
2010	(\$1,426,784)

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain from <i>Economically Distressed Areas Clearance Fund</i>	Probable Savings/ (Cost) from <i>Economically Distressed Areas Clearance Fund</i>	Probable Savings/ (Cost) from <i>GENERAL REVENUE FUND</i> 1	Change in Number of State Employees from FY 2005
2006	\$0	\$0	(\$192,467)	2.0
2007	\$6,334,560	(\$6,334,560)	(\$713,392)	8.5
2008	\$10,669,120	(\$10,669,120)	(\$1,426,784)	17.0
2009	\$15,003,681	(\$15,003,681)	(\$1,426,784)	17.0
2010	\$18,942,150	(\$18,942,150)	(\$1,426,784)	17.0

Fiscal Analysis

The bill would modify current eligibility requirements for communities to qualify for funding under the Economically Distressed Areas Program (EDAP) operated by the Water Development Board, removing requirements linking eligibility to average per capita income, unemployment levels, and proximity to the international border and replacing them with a requirement based on median income. For a community to receive EDAP assistance, the county in which that community is located would have to have adopted the model subdivision rules in Water Code, § 16.343.

The bill would provide for the Texas Commission on Environmental Quality (TCEQ) to establish a fee

to be collected by retail public utilities to be deposited to the credit of the economically distressed areas clearance fund. The amount of fees collected could not exceed two cents per day per customer. The fee could not be established until April 1, 2006, and proceeds could be used to pay debt service on bonds issued for the EDAP program and for other forms of financial assistance, such as facility planning.

Enactment of the bill would be contingent upon voter approval of a constitutional amendment proposed by the Seventy-ninth Legislature, Regular Session, 2005, providing for the issuance of \$500 million in additional general obligation bonds for EDAP assistance.

Methodology

This estimate assumes that \$50 million in EDAP general obligation bonds would be issued each fiscal year from 2007 thru 2016. It is assumed that the fee set by TCEQ and collected by retail public utilities would be set at a rate to cover the cost of debt service and facility planning costs each year and be paid out of the Economically Distressed Areas Clearance Fund. Debt service would cost \$4.3 million in fiscal year 2007, rising to \$16.9 million by fiscal year 2010. An additional \$2 million in facility planning grants would be made from proceeds of the Economically Distressed Areas Clearance Fund.

Because of the increase in activity in the EDAP program (an anticipated increase of 10 to 15 EDAP applications annually), the Water Development Board would require additional FTEs for program operations. Because the bill does not provide for such administrative costs to be paid out of the Economically Distressed Areas Clearance Fund, this estimate assumes these costs would be paid out of the General Revenue Fund.

Since fees generating revenue to pay debt service costs would not be created until April 1, 2006, this estimate assumes that the first bonds would be issued in fiscal year 2007. Therefore, additional staff needs in fiscal year 2006 would be limited to two additional FTEs and related costs to coordinate rules and program procedures. In fiscal year 2007, an additional 6.5 FTEs would be added to process applications and coordinate facility planning projects. In fiscal year 2008, an additional 8.5 FTEs would be added to provide capacity development services and handle the increased workload resulting from additional projects being started while other projects move into later stages of development. It is assumed that this staffing level would be maintained through fiscal year 2010.

Local Government Impact

Local governments throughout the state would be the beneficiaries of an additional \$50 million in funding for EDAP projects upon passage of the bill. There could be some costs to local governments and demonstrate sufficient managerial, financial, and technical assistance to operate the system for which the entity would be applying to the Water Development Board for funding. Any cost would be more than offset by assistance received from the EDAP program. However, an applicant not awarded a grant would be required to absorb such costs.

Source Agencies: 580 Water Development Board, 582 Commission on Environmental Quality

LBB Staff: JOB, CL, ZS, TL

HOUSE COMMITTEE REPORT

05 MAY 20 AM 3:15
HOUSE OF REPRESENTATIVES

1st Printing

By: Lucio, et al.
(Chavez)

S.B. No. 964

Substitute the following for S.B. No. 964:

By: Chavez

C.S.S.B. No. 964

A BILL TO BE ENTITLED

AN ACT

relating to the authorization, administration, and funding of the program to provide financial assistance for the construction, acquisition, or improvement of water supply and sewer services for economically distressed areas.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subsection (a), Section 15.407, Water Code, is amended to read as follows:

(a) In this section, "economically distressed area" and "political subdivision" have the meanings assigned by Section 17.921 [~~16.341 of this code~~].

SECTION 2. Subdivisions (1) and (2), Section 16.341, Water Code, are amended to read as follows:

(1) "Affected county" means a county[+
[~~(A)~~] that has an economically distressed area which has a median household income that is not greater than 75 percent of the median state household income [~~a per capita income that averaged 25 percent below the state average for the most recent three consecutive years for which statistics are available and an unemployment rate that averaged 25 percent above the state average for the most recent three consecutive years for which statistics are available, or~~

[~~(B) that is adjacent to an international border~~].

(2) "Economically distressed area" has the meaning assigned by Section 17.921 ~~[means an area in which:~~

~~[(A) water supply or sewer services are inadequate to meet minimal needs of residential users as defined by board rules,~~

~~[(B) financial resources are inadequate to provide water supply or sewer services that will satisfy those needs, and~~

~~[(C) an established residential subdivision was located on June 1, 1989, as determined by the board].~~

SECTION 3. Subsections (b) and (c), Section 16.343, Water Code, are amended to read as follows:

(b) The model rules must:

(1) assure that adequate drinking water is available to the residential areas in accordance with Chapter 341, Health and Safety Code, and the Rules and Regulations for Public Water Systems and the Drinking Water Standards Governing Water Quality and Reporting Requirements for Public Water Supply Systems adopted by the commission ~~[Texas Board of Health]~~ and other law and rules applicable to drinking water; and

(2) provide criteria applicable to tracts that were divided into two or more parts to lay out a subdivision and were not platted or recorded before September 1, 2005 ~~[1989]~~.

(c) The model rules must:

(1) assure that adequate sewer facilities are available to the residential areas through either septic tanks or an organized sewage disposal system that is a publicly or privately

1 owned system for the collection, treatment, and disposal of sewage
2 operated in accordance with the terms and conditions of a valid
3 waste discharge permit issued by the commission or private sewage
4 facilities in accordance with Chapter 366, Health and Safety Code,
5 and the Construction Standards for On-Site Sewerage Facilities
6 adopted by the commission and other law and rules applicable to
7 sewage facilities; and

8 (2) provide criteria applicable to tracts that were
9 divided into two or more parts to lay out a subdivision and were not
10 platted or recorded before September 1, 2005 [~~1989~~].

11 SECTION 4. Section 17.0112, Water Code, is amended to read
12 as follows:

13 Sec. 17.0112. AUTHORIZATION OF CERTAIN BONDS FOR FINANCIAL
14 ASSISTANCE. (a) The board may issue not more than \$25 million in
15 bonds dedicated under Section 17.0111 of this code and may issue not
16 more than \$50 million in bonds authorized under Section 49-d-10,
17 Article III, Texas Constitution, during a fiscal year to provide
18 financial assistance for water supply and sewer services as
19 provided under Subchapter K of this chapter.

20 (b) On request of the board, the bond review board by
21 resolution may waive during any state fiscal year the limits
22 [~~limit~~] provided by Subsection (a) [~~of this section~~] and authorize
23 the board to issue an additional amount of bonds if the bond review
24 board finds that the amount of bonds authorized for that state
25 fiscal year has been exhausted or there is not a sufficient amount
26 of bonds to meet needs of the program during the state fiscal year
27 and that the public health and safety require immediate

1 authorization of additional bonds. Before the bond review board
2 adopts such a resolution, it shall give notice and hold a hearing to
3 determine whether the limits should be waived and the authorization
4 given.

5 SECTION 5. Section 17.921, Water Code, is amended by
6 amending Subdivision (1) and adding Subdivision (6) to read as
7 follows:

8 (1) "Economically distressed area" means an area in
9 which:

10 (A) water supply or sewer services are inadequate
11 to meet minimal needs of residential users as defined by board
12 rules;

13 (B) financial resources are inadequate to
14 provide water supply or sewer services that will satisfy those
15 needs; and

16 (C) an established residential subdivision was
17 located on June 1, 2005 [~~1989~~], as determined by the board.

18 (6) "Economically distressed areas account" means the
19 economically distressed areas account in the Texas Water
20 Development Fund or the economically distressed areas program
21 account in the Texas Water Development Fund II.

22 SECTION 6. Subsection (b), Section 17.922, Water Code, is
23 amended to read as follows:

24 (b) To the extent practicable, the board shall use the funds
25 in the economically distressed areas account in conjunction with
26 the other financial assistance available through the board to
27 encourage the use of cost-effective water supply and wastewater

systems, including regional systems, to maximize the long-term economic development of counties eligible for financial assistance under the economically distressed areas program. Any savings derived from the construction of a regional system that includes or serves an economically distressed area project shall be factored into the board's determination of financial assistance for the economically distressed area in a manner that assures the economically distressed area receives appropriate benefits from the savings. In no event shall financial assistance provided from the economically distressed areas account be used to provide water supply or wastewater service to any area that is not ~~[defined as]~~ an economically distressed area ~~[pursuant to Section 17.921(1)(A) of this code]~~.

SECTION 7. Subsections (b), (c), and (d), Section 17.927, Water Code, are amended to read as follows:

(b) The application and plan must include:

(1) the name of the political subdivision and its principal officers ~~[comply with board requirements]~~;

(2) a citation of the law under which the political subdivision was created and operates ~~[describe in detail the method for delivering water supply and sewer services and the persons to whom the services will be provided]~~;

(3) a project plan, prepared and certified by an engineer registered to practice in this state, that must:

(A) describe the proposed planning, design, and construction activities necessary to provide water supply and sewer services that meet minimum state standards; and

1 (B) identify the households to which the water
2 supply and sewer services will be provided ~~[describe the method for~~
3 ~~complying with minimum state standards for water supply and sewer~~
4 ~~services adopted by the board under Section 16.342 of this code];~~

5 (4) ~~[include]~~ a budget that estimates the total cost
6 of providing water supply and sewer services to the economically
7 distressed area and a proposed schedule and method for repayment of
8 financial assistance consistent with board rules and guidelines;

9 (5) a description of the ~~[describe]~~ existing water
10 supply and sewer facilities located in the ~~[economically~~
11 ~~distressed]~~ area to be served by the proposed project, including a
12 statement ~~[and include with the description:]~~

13 ~~[(A) the county map required by Section 366.036,~~
14 ~~Health and Safety Code, or~~

15 ~~[(B) a document]~~ prepared and certified by an
16 engineer registered to practice in this state that the facilities
17 do not meet minimum state standards ~~[describing the plan for~~
18 ~~providing water supply and sewer services to the economically~~
19 ~~distressed area];~~

20 (6) documentation ~~[provide proof]~~ that the
21 appropriate political subdivision has adopted the model rules
22 developed under Section 16.343 ~~[of this code];~~

23 (7) ~~[include]~~ information identifying the median
24 household income for the area to be served by the proposed project
25 ~~[on the ability of potential customers to pay for the services~~
26 ~~provided by the project including composite data prepared by the~~
27 ~~applicant pursuant to board rules and guidelines from surveys of~~

1 ~~those potential customers covering income, family size, personal~~
2 ~~expenses, employment status, and other information required by~~
3 ~~board rule]; and~~

4 (8) the total amount of assistance requested from the
5 economically distressed areas account ~~[include an estimate of the~~
6 ~~per household cost of providing the services contemplated by the~~
7 ~~project with supporting data,~~

8 ~~[(9) describe the procedures to be used to collect~~
9 ~~money from residents who use the proposed water supply and sewer~~
10 ~~services including procedures for collection of delinquent~~
11 ~~accounts,~~

12 ~~[(10) include a requirement that a contractor who~~
13 ~~agrees to acquire, construct, extend, or provide water supply and~~
14 ~~sewer services executes a performance bond in the amount of 100~~
15 ~~percent of the contract price,~~

16 ~~[(11) contain an agreement to comply with applicable~~
17 ~~procurement procedures in contract awards for water supply and~~
18 ~~sewer services,~~

19 ~~[(12) if located in the service area of a retail public~~
20 ~~utility or public utility that has a certificate of public~~
21 ~~convenience and necessity under Chapter 13 of this code, include a~~
22 ~~document in the form of an affidavit signed by the chief executive~~
23 ~~officer of the utility, which shall cooperate with the political~~
24 ~~subdivision, stating that the utility does not object to the~~
25 ~~construction and operation of the services and facilities in its~~
26 ~~service area,~~

27 ~~[(13) include a map of the economically distressed~~

1 ~~area together with supporting information relating to dwellings in~~
2 ~~the area,~~

3 ~~[(14) describe in detail the methods for incorporating~~
4 ~~water conservation into the provision of water and sewer services~~
5 ~~to the economically distressed area,~~

6 ~~[(15) include, on request of the board, a written~~
7 ~~determination by the commission on the managerial, financial, and~~
8 ~~technical capabilities of the applicant to operate the system for~~
9 ~~which assistance is being requested, and~~

10 ~~[(16) include any other information required by the~~
11 ~~board].~~

12 (c) Before the board approves the application or provides
13 any funds under an application, it shall require an applicant to
14 adopt a program of water conservation for the more effective use of
15 water that meets the criteria established under Section 17.125 [~~if~~
16 ~~an applicant is a district or nonprofit water supply corporation,~~
17 ~~the applicant must include with the application proof that the~~
18 ~~appropriate county and municipalities have given their consent].~~

19 (d) Before considering an application, the board may
20 require the applicant to:

21 (1) provide documentation to the executive
22 administrator sufficient to allow review of the applicant's
23 managerial, financial, and technical capabilities to operate the
24 system for which assistance is being requested;

25 (2) provide a written determination by the commission
26 on the applicant's managerial, financial, and technical
27 capabilities to operate the system for which assistance is being

1 requested;

2 (3) request that the comptroller perform a financial
3 management review of the applicant and, if the review is performed,
4 provide the board with the results of the review; or

5 (4) provide any other information required by the
6 board or the executive administrator ~~[In an application to the~~
7 ~~board for financial assistance for a water supply project or for~~
8 ~~sewer services, the applicant shall include:~~

9 ~~[(1) the name of the political subdivision and its~~
10 ~~principal officers,~~

11 ~~[(2) a citation of the law under which the political~~
12 ~~subdivision operates and was created,~~

13 ~~[(3) a description of the water supply project or the~~
14 ~~sewer services for which the financial assistance will be used,~~

15 ~~[(4) the estimated total cost of the water supply~~
16 ~~project or sewer services construction,~~

17 ~~[(5) the amount of state financial assistance~~
18 ~~requested,~~

19 ~~[(6) the plan for repaying the financial assistance~~
20 ~~provided for the water supply project or sewer services, and~~

21 ~~[(7) any other information the board requires].~~

22 SECTION 8. Section 17.929, Water Code, is amended to read as
23 follows:

24 Sec. 17.929. CONSIDERATIONS IN PASSING ON APPLICATION.

25 (a) In passing on an application for financial assistance, the
26 board shall consider:

27 (1) the need of the economically distressed area to be

1 served by the water supply and sewer services in relation to the
2 need of other political subdivisions requiring financial
3 assistance under this subchapter and the relative costs and
4 benefits of all applications;

5 (2) the availability to the area to be served by the
6 project of revenue or financial assistance from alternative sources
7 for the payment of the cost of the proposed project ~~[efforts by the~~
8 ~~residents of the economically distressed area to provide necessary~~
9 ~~water supply and sewer services]~~;

10 (3) ~~[the proposed use of labor from inside the~~
11 ~~political subdivision to perform contracts for providing water~~
12 ~~supply and sewer services,~~

13 ~~[(4) the relationship of the proposed water supply and~~
14 ~~sewer services to minimum state standards for water supply and~~
15 ~~sewer services adopted under Section 16.343 of this code,~~

16 ~~[(5)]~~ the financing of the proposed water supply and
17 sewer project including consideration of:

18 (A) the budget and repayment schedule submitted
19 under Section 17.927(b)(4) ~~[of this code]~~;

20 (B) other items included in the application
21 relating to financing; and

22 (C) other financial information and data
23 available to the board;

24 (4) ~~[(6) whether the applicant has proposed methods~~
25 ~~for incorporating water conservation into the provision of water~~
26 ~~and sewer services to the economically distressed area,~~

27 ~~[(7)]~~ whether the county and other appropriate

1 political subdivisions have [~~has~~] adopted model rules pursuant to
2 Section 16.343 [~~of this code~~] and the manner of enforcement of model
3 rules;

4 [~~(8) the feasibility of creating a conservation and~~
5 ~~reclamation district under Article XVI, Section 59, of the Texas~~
6 ~~Constitution, to provide the services and finance the water supply~~
7 ~~and sewer services covered by the application with district bonds~~
8 ~~issued and sold through the regular bond market;~~

9 [~~(9) the percentage of the total project cost that the~~
10 ~~financial assistance will comprise,~~] and

11 (5) [~~(10)~~] the feasibility of achieving cost savings
12 by providing a regional facility for water supply or wastewater
13 service and the feasibility of financing the facility by using
14 funds from the economically distressed areas account or any other
15 financial assistance.

16 (b) At the time an application for financial assistance is
17 considered, the board also must find that the area to be served by a
18 proposed project has a median household income that is not greater
19 than 75 percent of the median state household income [~~an average per~~
20 ~~capita income that is at least 25 percent below the state average]~~
21 for the most recent year [~~three consecutive years~~] for which
22 statistics are available.

23 SECTION 9. Subsection (b), Section 17.930, Water Code, is
24 amended to read as follows:

25 (b) After making the considerations provided by Section
26 17.929 [~~of this code~~], the board by resolution shall:

27 (1) approve the plan and application as submitted;

1 (2) approve the plan and application subject to the
2 requirements identified by the board or commission for the
3 applicant to obtain the managerial, financial, and technical
4 capabilities to operate the system and any other requirements,
5 including training under Subchapter M, the board considers
6 appropriate;

7 (3) deny the application and identify the requirements
8 or remedial steps the applicant must complete before the applicant
9 may be reconsidered for financial assistance;

10 (4) if the board finds that the applicant will be
11 unable to obtain the managerial, financial, or technical
12 capabilities to build and operate a system, deny the application
13 and issue a determination that a service provider other than the
14 applicant is necessary or appropriate to undertake the proposed
15 project; or

16 (5) deny the application.

17 SECTION 10. Subsections (a) and (c), Section 17.933, Water
18 Code, are amended to read as follows:

19 (a) The board may use money in the economically distressed
20 areas account to provide financial assistance to a political
21 subdivision [~~to be repaid~~] in the form of a loan, including a loan
22 with zero interest, grant, or other type of financial assistance to
23 be determined [~~, manner, and time provided~~] by the board [~~rules and~~
24 ~~in the agreement between the board and the political subdivision~~]
25 taking into consideration the information provided by Section
26 17.927(b)(7) [~~of this code~~].

27 (c) The total amount of financial assistance provided by the

1 board to political subdivisions under this subchapter from
2 state-issued bonds for which repayment is not required may not
3 exceed at any time 90 percent of the total principal amount of
4 issued and unissued bonds authorized under Article III, Sections
5 ~~[Section]~~ 49-d-7 and 49-d-10, of the Texas Constitution, for
6 purposes of this subchapter plus outstanding interest on those
7 bonds.

8 SECTION 11. Section 17.952, Water Code, is amended to read
9 as follows:

10 Sec. 17.952. ISSUANCE OF WATER FINANCIAL ASSISTANCE BONDS.
11 The board by resolution may provide for the issuance of water
12 financial assistance bonds, which shall be general obligation bonds
13 of the state, in an aggregate principal amount not to exceed the
14 principal amount authorized to be issued by the ~~[Section 49-d-8,~~
15 ~~Article III,~~] Texas Constitution.

16 SECTION 12. Subsection (a), Section 17.993, Water Code, is
17 amended to read as follows:

18 (a) The commission or the board may evaluate whether an
19 operating entity needs training if the operating entity:

20 (1) requests financial assistance or an amendment to
21 the project plan or budget ~~[additional funding]~~;

22 (2) requests more time to meet its obligations under a
23 repayment schedule;

24 (3) does not provide required documentation; or

25 (4) has a history of compliance problems, as
26 determined by the commission.

27 SECTION 13. Subsection (a), Section 212.0105, Local

Government Code, is amended to read as follows:

(a) This section applies only to a person who:

(1) is the owner of a tract of land in ~~[either:~~

~~[(A) a county that is contiguous to an international border, or~~

~~[(B)] a county in which a political subdivision that is eligible for and has applied for [has received] financial assistance through Subchapter K, Chapter 17, Water Code;~~

(2) divides the tract in a manner that creates any lots that are intended for residential purposes and are five acres or less; and

(3) is required under this subchapter to have a plat prepared for the subdivision.

SECTION 14. Section 232.071, Local Government Code, is amended to read as follows:

Sec. 232.071. APPLICABILITY. This subchapter applies only to the subdivision of land located:

(1) outside the corporate limits of a municipality; and

(2) in a county:

(A) in which is located a political subdivision that is eligible for and has applied for financial assistance under Section 15.407, Water Code, or Subchapter K, Chapter 17, Water Code; and

(B) to which Subchapter B does not apply.

SECTION 15. Subsection (i), Section 15.407, Subsection (f), Section 16.343, Sections 17.923 through 17.926, and Subsection (g),

1 Section 17.933, Water Code, are repealed.

2 SECTION 16. The changes in law made by this Act apply only
3 to an application for financial assistance pending or filed on or
4 after the effective date of this Act.

5 SECTION 17. This Act takes effect on the date on which the
6 constitutional amendment proposed by the 79th Legislature, Regular
7 Session, 2005, providing for the issuance of additional general
8 obligation bonds by the Texas Water Development Board in an amount
9 not to exceed \$785 million to provide assistance to economically
10 distressed areas, takes effect. If that amendment is not approved
11 by the voters, this Act has no effect.

COMMITTEE REPORT

The Honorable Tom Craddick
Speaker of the House of Representatives

5/18/05
(date)

Sir:

We, your COMMITTEE ON BORDER AND INTERNATIONAL AFFAIRS

to whom was referred SB 964 have had the same under consideration and beg to report back with the recommendation that it

- () do pass, without amendment.
- () do pass, with amendment(s).
- (✓) do pass and be not printed; a Complete Committee Substitute is recommended in lieu of the original measure.
- (✓) yes () no A fiscal note was requested.
- () yes (✓) no A criminal justice policy impact statement was requested.
- () yes (✓) no An equalized educational funding impact statement was requested.
- () yes (✓) no An actuarial analysis was requested.
- () yes (✓) no A water development policy impact statement was requested.
- (✓) yes () no A tax equity note was requested.
- () The Committee recommends that this measure be sent to the Committee on Local and Consent Calendars.

For Senate Measures: House Sponsor Chavez

Joint Sponsors: _____

Co-Sponsors: _____

The measure was reported from Committee by the following vote:

	AYE	NAY	PNV	ABSENT
Chavez, Chair	✓			
Griggs, Vice-chair		✓		
Alonzo	✓			
Castro	✓			
Merritt				✓
Moreno, J.				
Vo	✓			

Total 4 aye
1 nay
0 present, not voting
1 absent

Nona Chavez
CHAIR

BILL ANALYSIS

C.S.S.B. 964

By: Lucio

Border and International Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The 71st Legislature, Regular Session, 1989, passed S.B. 2, the state's first major attempt to address the problems associated with colonias, and established the Economically Distressed Areas Program (EDAP) to provide financial assistance in the form of grants and loans for water and wastewater service to economically distressed areas. The Texas Water Development Board was made the EDAP administrator and directed to develop model rules to assure water and sewer services to residential developments and to strengthen platting requirements. To be eligible for state financial assistance in water and wastewater projects, the counties and municipalities are required to adopt the model rules. EDAP is financed through general obligation bonds that were approved by constitutional amendments authorizing the board with \$250 million in bonding authority. A small amount of this bonding authority remains to address the water and wastewater needs in currently-existing traditional EDAP communities.

The committee substitute to Senate Bill 964 continues the Economically Distressed Area Program to prevent future substandard colonia-like developments in different parts of the state and extends the program statewide to address traditional EDAP communities' and non-EDAP communities' water and wastewater needs by providing the board new bonding authority, contingent on voter approval, of up to \$785 million.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Commission on Environmental Quality in SECTION 3 (Section 16.343, Water Code) and rulemaking authority previously granted to the Texas Water Development Board is modified in SECTION 3 (Section 16.343, Water Code) of this bill.

ANALYSIS

SECTION 1 Amends Section 15.407(a), Water Code, to redefine "economically distressed area" and "political subdivision."

SECTION 2 Amends Section 16.341, Water Code, to redefine "affected county" and "economically distressed area."

SECTION 3 Amends Section 16.343, Water Code, to require the model rules adopted by the Water Development Board (Board) assure that drinking water is available to residential areas in accordance with certain rules and regulations adopted by the Texas Commission on Environmental Quality (Commission), rather than the Texas Board of Health. Requires the model rules to provide certain criteria applicable to certain tracts specifically for both border counties and non-border counties, rather than for all counties. Makes conforming and nonsubstantive changes.

SECTION 4 Amends Section 17.0112, Water Code, to authorize the board to issue not more than \$50 million in bonds authorized under Section 49-d-10, Article III, Texas Constitution, during a fiscal year to provide financial assistance for certain water supply and sewer services. Makes conforming and nonsubstantive changes.

SECTION 5 Amends Section 17.921, Water Code, by amending the definition of "economically distressed area" to include in the definition an established

residential subdivision that was located on June 1, 2005, [rather than 1989] as determined by the Board; and, including a definition for "economically distressed areas account" that relates to the economically distressed areas account in the Texas Water Development Board Fund or the economically distressed areas account in the Texas Water Development Board Fund II.

SECTION 6 Amends Section 17.922(b), Water Code, to make conforming changes relative to the expansion of the program and the amended definition of economically distressed area.

SECTION 7 Amends Section 17.927, Water Code, to require an application and plan [submitted by a political subdivision to the Board for financial assistance] to include certain information, and deletes references to other required information. Also makes nonsubstantive changes.

Requires the Board, before it approves the application or provides funds, to require an applicant to adopt a certain water conservation program. Deletes the reference to certain applicants including proof with the application of county or municipality consent.

Authorizes the Board, before considering an application, to require the applicant to provide certain information and documentation, provide a written determination by the Commission on the applicant's capabilities to operate the system for which assistance is being requested, and request a financial review of the applicant. Deletes existing text relating to certain other information an applicant must include in an application for financial assistance.

SECTION 8 Amends Section 17.929, Water Code, setting forth a new element the board is required to consider in passing on an application for financial assistance, and deletes other elements the board was required to consider. Makes conforming and nonsubstantive changes.

Requires the Board to find that the area to be served by the proposed project has a median house hold income that is not greater than 75 percent of the median state household income for the most recent year for which statistics are available, rather than an average per capita income that is at least 25 percent below the state average for the most recent three consecutive years for which statistics are available.

SECTION 9 Amends Section 17.930(b), Water Code, to require the Board by resolution, among other options, to approve the plan and application subject to certain requirements identified by the Board or Commission, rather than by the Commission, for the applicant to obtain the managerial, financial, and technical capabilities to operate the system and any other requirements, including training under Subchapter M, Water Code, the Board considers appropriate. Makes a nonsubstantive change.

SECTION 10 Amends Sections 17.933, Water Code, to authorize the Board to use money in the economically distressed areas account to provide financial assistance to a political subdivision in the form of a loan, grant, or other type of financial assistance to be determined by the board, rather than to a political subdivision to be repaid in the form, manner, and time provided by Board rules and the agreement between the Board and political subdivision. Makes a nonsubstantive change.

Provides that the total amount of financial assistance from state-issued bonds for which repayment is not required may not exceed 90 percent of the total principal amount of issued and unissued bonds authorized under Article III, Sections 49-d-7 and 49-d-10, rather than Section 49-d-7, of the Texas Constitution.

SECTION 11 Amends Section 17.952, Water Code, to delete the reference to a specific portion of the Texas Constitution and make a general reference to the Constitution.

SECTION 12 Amends Section 17.993(a), Water Code, to authorize the Commission or the Board to evaluate whether an operating entity needs training if the operating entity requests financial assistance or an amendment to the project plan or budget, rather than additional funding.

SECTION 13 Amends Section 212.0105, Local Government Code, to make conforming changes relative to the expansion of the program.

SECTION 14 Amends Section 232.071, Local Government Code, to provide that Subchapter C (County Planning Commission), Chapter 232, Local Government Code, applies to the subdivision of land located in a county in which is located a political subdivision that is eligible for or has applied for financial assistance under Section 15.407, Water Code, or Subchapter K (Assistance to Economically Distressed Areas for Water Supply and Sewer Service Projects), Chapter 17, Water Code, and to which Subchapter B (Subdivision Platting Requirements In County Near International Border) Chapter 232, Local Government Code, does not apply rather than in a county eligible for financial assistance under those provisions in the Water Code.

SECTION 15 Repeals the follow Sections of the Water Code:

- 15.407(i) (relating to continued eligibility for funds after a county has an increase in per capita income or a decrease in unemployment);
- 16.343(f) (providing that only an affected county may adopt the model rules);
- 17.923 (County Eligibility for Financial Assistance);
- 17.924 (Municipality Eligible for Financial Assistance);
- 17.925 (Districts and Nonprofit Water Supply Corporations Eligible for Financial Assistance);
- 17.926 (Applicants' Continued Eligibility); and,
- 17.933(g) (relating to the cap on the amount of financial assistance for which repayment is not required).

SECTION 16 Makes application of this Act prospective to applications for financial assistance pending or filed on or after the effective date of this Act.

SECTION 17 This Act takes effect upon approval by the voters of the constitutional amendment proposed by the 79th Legislature, Regular Session, 2005, providing for the issuance of additional general obligation bonds by the Texas Water Development Board in an amount not to exceed \$785 million to provide assistance to economically distressed areas. If that amendment is not approved by the voters, then this Act has no effect.

EFFECTIVE DATE

Upon approval by the voters of the constitutional amendment proposed for November 8, 2005. If that amendment is not approved by the voters, then this Act has no effect.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute increases the bonding authority of the Water Development Board to \$785 million to provide assistance to economically distressed areas. The amount in the engrossed version of the bill was \$500 million.

SUMMARY OF COMMITTEE ACTION

SB 964

May 16, 2005 8:00AM

Considered in public hearing

Testimony taken in committee (See attached witness list.)

Left pending in committee

May 18, 2005 upon final adjourn./recess

Considered in formal meeting

Committee substitute considered in committee

Reported favorably as substituted

WITNESS LIST

SB 964

HOUSE COMMITTEE REPORT

Border and International Affairs Committee

May 16, 2005 - 8:00AM

For: Henneberger, John (Texas Low Income Housing Information Service & Border Low Income Housing Coalition)

On: Madera, Jr., Ignacio (Texas Water Development Board)
Steinberg, Jonathan (Texas Water Development Board)
Ward, Kevin (Texas Water Development Board)

Registering, but not testifying:

For: de Lafuente, Veronica (Office of Cameron County Judge Gilberto Hinojosa)
Reed, Cyrus (Lone Star Chapter of Sierra Club)
Rice, Chuck (Texas Land Developers Association)

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

May 19, 2005

TO: Honorable Norma Chavez, Chair, House Committee on Border and International Affairs

FROM: John S. O'Brien, Deputy Director, Legislative Budget Board

IN RE: SB964 by Lucio (Relating to the authorization, administration, and funding of the program to provide financial assistance for the construction, acquisition, or improvement of water supply and sewer services for economically distressed areas.), **Committee Report 2nd House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for SB964, Committee Report 2nd House, Substituted: a negative impact of (\$7,130,787) through the biennium ending August 31, 2007.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2006	(\$82,835)
2007	(\$7,047,952)
2008	(\$11,942,040)
2009	(\$16,276,601)
2010	(\$20,215,070)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from GENERAL REVENUE FUND 1	Change in Number of State Employees from FY 2005
2006	(\$82,835)	1.0
2007	(\$7,047,952)	8.5
2008	(\$11,942,040)	17.0
2009	(\$16,276,601)	17.0
2010	(\$20,215,070)	17.0

Fiscal Analysis

The bill would modify current eligibility requirements for communities to qualify for funding under the Economically Distressed Areas Program (EDAP) operated by the Water Development Board, removing requirements linking eligibility to average per capita income, unemployment levels, and proximity to the international border and replacing them with a requirement based on median income. For a community to receive EDAP assistance, the county in which that community is located would have to have adopted the model subdivision rules in Water Code, § 16.343.

Enactment of the bill would be contingent upon voter approval of a constitutional amendment proposed by the Seventy-ninth Legislature, Regular Session, 2005, providing for the

issuance of \$785 million in additional general obligation bonds for EDAP assistance.

Methodology

This estimate assumes that if the constitutional amendment would pass, \$50 million in EDAP general obligation bonds would be issued each fiscal year from 2007 thru 2021. Debt service on these bonds would cost \$4.3 million in fiscal year 2007, rising to \$16.9 million by fiscal year 2010. An additional \$2 million in facility planning grants would be made each year. All costs would be paid from the General Revenue Fund.

Because of the increase in activity in the EDAP program (an anticipated increase of 10 to 15 EDAP applications annually), the Water Development Board would require additional FTEs for program operations. Since fees in the bill could not be created until April 1, 2006, this estimate assumes that the first bonds would be issued in fiscal year 2007. Therefore, additional staff needs in fiscal year 2006 would be limited to one additional FTE and related costs to coordinate rules and program procedures. In fiscal year 2007, an additional 7.5 FTEs would be added to process applications and coordinate facility planning projects. In fiscal year 2008, an additional 8.5 FTEs would be added to provide capacity development services and handle the increased workload resulting from additional projects being started while other projects move into later stages of development. It is assumed that this staffing level would be maintained through fiscal year 2010.

Administrative costs to the Water Development Board would total \$82,835 in fiscal year 2006, \$713,392 in fiscal year 2007, and \$1,272,920 in future years. This estimate assumes that all such costs would also be paid out of the General Revenue Fund.

Local Government Impact

Local governments throughout the state would be the beneficiaries of an additional \$50 million in annual funding for EDAP projects upon passage of the bill. There could be some costs to local governments and demonstrate sufficient managerial, financial, and technical assistance to operate the system for which the entity would be applying to the Water Development Board for funding. Any cost would be more than offset by assistance received from the EDAP program. However, an applicant not awarded a grant would be required to absorb such costs.

Source Agencies: 582 Commission on Environmental Quality, 580 Water Development Board

LBB Staff: JOB, CL, ZS, TL

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

May 15, 2005

TO: Honorable Norma Chavez, Chair, House Committee on Border and International Affairs

FROM: John S. O'Brien, Deputy Director, Legislative Budget Board

IN RE: SB964 by Lucio (Relating to the authorization, administration, and funding of the program to provide financial assistance for the construction, acquisition, or improvement of water supply and sewer services for economically distressed areas.), **As Engrossed**

Estimated Two-year Net Impact to General Revenue Related Funds for SB964, As Engrossed: a negative impact of (\$7,130,787) through the biennium ending August 31, 2007.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2006	(\$82,835)
2007	(\$7,047,952)
2008	(\$11,942,040)
2009	(\$16,276,601)
2010	(\$20,215,070)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from GENERAL REVENUE FUND 1	Change in Number of State Employees from FY 2005
2006	(\$82,835)	1.0
2007	(\$7,047,952)	8.5
2008	(\$11,942,040)	17.0
2009	(\$16,276,601)	17.0
2010	(\$20,215,070)	17.0

Fiscal Analysis

The bill would modify current eligibility requirements for communities to qualify for funding under the Economically Distressed Areas Program (EDAP) operated by the Water Development Board, removing requirements linking eligibility to average per capita income, unemployment levels, and proximity to the international border and replacing them with a requirement based on median income. For a community to receive EDAP assistance, the county in which that community is located would have to have adopted the model subdivision rules in Water Code, § 16.343.

Enactment of the bill would be contingent upon voter approval of a constitutional amendment proposed by the Seventy-ninth Legislature, Regular Session, 2005, providing for the issuance of \$500 million in additional general obligation bonds for EDAP assistance.

Methodology

This estimate assumes that if the constitutional amendment would pass, \$50 million in EDAP general obligation bonds would be issued each fiscal year from 2007 thru 2016. Debt service on these bonds would cost \$4.3 million in fiscal year 2007, rising to \$16.9 million by fiscal year 2010. An additional \$2 million in facility planning grants would be made each year. All costs would be paid from the General Revenue Fund.

Because of the increase in activity in the EDAP program (an anticipated increase of 10 to 15 EDAP applications annually), the Water Development Board would require additional FTEs for program operations. Since fees in the bill could not be created until April 1, 2006, this estimate assumes that the first bonds would be issued in fiscal year 2007. Therefore, additional staff needs in fiscal year 2006 would be limited to one additional FTE and related costs to coordinate rules and program procedures. In fiscal year 2007, an additional 7.5 FTEs would be added to process applications and coordinate facility planning projects. In fiscal year 2008, an additional 8.5 FTEs would be added to provide capacity development services and handle the increased workload resulting from additional projects being started while other projects move into later stages of development. It is assumed that this staffing level would be maintained through fiscal year 2010.

Administrative costs to the Water Development Board would total \$82,835 in fiscal year 2006, \$713,392 in fiscal year 2007, and \$1,272,920 in future years. This estimate assumes that all such costs would also be paid out of the General Revenue Fund.

Local Government Impact

Local governments throughout the state would be the beneficiaries of an additional \$50 million in annual funding for EDAP projects upon passage of the bill. There could be some costs to local governments and demonstrate sufficient managerial, financial, and technical assistance to operate the system for which the entity would be applying to the Water Development Board for funding. Any cost would be more than offset by assistance received from the EDAP program. However, an applicant not awarded a grant would be required to absorb such costs.

Source Agencies: 580 Water Development Board, 582 Commission on Environmental Quality

LBB Staff: JOB, CL, ZS, TL

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

April 15, 2005

TO: Honorable Eddie Lucio, Jr., Chair, Senate Committee on International Relations & Trade

FROM: John S. O'Brien, Deputy Director, Legislative Budget Board

IN RE: **SB964** by Lucio (Relating to the authorization, administration, and funding of the program to provide financial assistance for the construction, acquisition, or improvement of water supply and sewer services for economically distressed areas.), **Committee Report 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for SB964, Committee Report 1st House, Substituted: an impact of \$0 through the biennium ending August 31, 2007.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2006	\$0
2007	\$0
2008	\$0
2009	\$0
2010	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain from Water Infrastructure Fund No. 302	Probable Savings/(Cost) from Water Infrastructure Fund No. 302	Change in Number of State Employees from FY 2005
2006	\$97,359	(\$97,359)	2.0
2007	\$7,047,952	(\$7,047,952)	8.5
2008	\$12,095,904	(\$12,095,904)	17.0
2009	\$16,430,465	(\$16,430,464)	17.0
2010	\$20,368,934	(\$18,942,150)	17.0

Fiscal Analysis

The bill would modify current eligibility requirements for communities to qualify for funding under the Economically Distressed Areas Program (EDAP) operated by the Water Development Board, removing requirements linking eligibility to average per capita income, unemployment levels, and proximity to the international border and replacing them with a requirement based on median income. For a community to receive EDAP assistance, the county in which that community is located would have to have adopted the model subdivision rules in Water Code, § 16.343.

The bill would provide for the Texas Commission on Environmental Quality (TCEQ) to establish a fee

to be collected by retail public utilities to be deposited to the credit of the Water Infrastructure Fund No. 302. The amount of fees collected could not exceed two cents per day per customer. The fee could not be established until April 1, 2006, and proceeds could be used to pay debt service on bonds issued for the EDAP program and for other forms of financial assistance, such as facility planning.

Enactment of the bill would be contingent upon voter approval of a constitutional amendment proposed by the Seventy-ninth Legislature, Regular Session, 2005, providing for the issuance of \$500 million in additional general obligation bonds for EDAP assistance.

Methodology

This estimate assumes that \$50 million in EDAP general obligation bonds would be issued each fiscal year from 2007 thru 2016. It is assumed that the fee set by TCEQ and collected by retail public utilities would be set at a rate to cover the cost of debt service and facility planning costs each year and be paid out of the Water Infrastructure Fund No. 302. Debt service would cost \$4.3 million in fiscal year 2007, rising to \$16.9 million by fiscal year 2010. An additional \$2 million in facility planning grants would be made from proceeds of the Water Infrastructure Fund No. 302.

Because of the increase in activity in the EDAP program (an anticipated increase of 10 to 15 EDAP applications annually), the Water Development Board would require additional FTEs for program operations. Since fees in the bill could not be created until April 1, 2006, this estimate assumes that the first bonds would be issued in fiscal year 2007. Therefore, additional staff needs in fiscal year 2006 would be limited to one additional FTE and related costs to coordinate rules and program procedures. In fiscal year 2007, an additional 6.5 FTEs would be added to process applications and coordinate facility planning projects. In fiscal year 2008, an additional 8.5 FTEs would be added to provide capacity development services and handle the increased workload resulting from additional projects being started while other projects move into later stages of development. It is assumed that this staffing level would be maintained through fiscal year 2010.

Administrative costs to the Water Development Board would be \$97,359 in fiscal year 2006, \$713,392 in fiscal year 2007, and \$1,426,784 in future years. Because the bill provides for such administrative costs to be paid out of the Water Infrastructure Fund No. 302, this estimate assumes that the retail water and sewer utility fee would be set at a rate to cover administrative as well as debt service and facility planning costs.

Local Government Impact

Local governments throughout the state would be the beneficiaries of an additional \$50 million in funding for EDAP projects upon passage of the bill. There could be some costs to local governments and demonstrate sufficient managerial, financial, and technical assistance to operate the system for which the entity would be applying to the Water Development Board for funding. Any cost would be more than offset by assistance received from the EDAP program. However, an applicant not awarded a grant would be required to absorb such costs.

Source Agencies: 580 Water Development Board, 582 Commission on Environmental Quality

LBB Staff: JOB, CL, ZS, TL

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

April 12, 2005

TO: Honorable Eddie Lucio, Jr., Chair, Senate Committee on International Relations & Trade

FROM: John S. O'Brien, Deputy Director, Legislative Budget Board

IN RE: **SB964** by Lucio (Relating to the authorization, administration, and funding of the program to provide financial assistance for the construction, acquisition, or improvement of water supply and sewer services for economically distressed areas.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for SB964, As Introduced: a negative impact of (\$905,859) through the biennium ending August 31, 2007.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2006	(\$192,467)
2007	(\$713,392)
2008	(\$1,426,784)
2009	(\$1,426,784)
2010	(\$1,426,784)

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain from <i>Economically Distressed Areas Clearance Fund</i>	Probable Savings/ (Cost) from <i>Economically Distressed Areas Clearance Fund</i>	Probable Savings/ (Cost) from <i>GENERAL REVENUE FUND</i> 1	Change in Number of State Employees from FY 2005
2006	\$0	\$0	(\$192,467)	2.0
2007	\$6,334,560	(\$6,334,560)	(\$713,392)	8.5
2008	\$10,669,120	(\$10,669,120)	(\$1,426,784)	17.0
2009	\$15,003,681	(\$15,003,681)	(\$1,426,784)	17.0
2010	\$18,942,150	(\$18,942,150)	(\$1,426,784)	17.0

Fiscal Analysis

The bill would modify current eligibility requirements for communities to qualify for funding under the Economically Distressed Areas Program (EDAP) operated by the Water Development Board, removing requirements linking eligibility to average per capita income, unemployment levels, and proximity to the international border and replacing them with a requirement based on median income. For a community to receive EDAP assistance, the county in which that community is located would have to have adopted the model subdivision rules in Water Code, § 16.343.

The bill would provide for the Texas Commission on Environmental Quality (TCEQ) to establish a fee

to be collected by retail public utilities to be deposited to the credit of the economically distressed areas clearance fund. The amount of fees collected could not exceed two cents per day per customer. The fee could not be established until April 1, 2006, and proceeds could be used to pay debt service on bonds issued for the EDAP program and for other forms of financial assistance, such as facility planning.

Enactment of the bill would be contingent upon voter approval of a constitutional amendment proposed by the Seventy-ninth Legislature, Regular Session, 2005, providing for the issuance of \$500 million in additional general obligation bonds for EDAP assistance.

Methodology

This estimate assumes that \$50 million in EDAP general obligation bonds would be issued each fiscal year from 2007 thru 2016. It is assumed that the fee set by TCEQ and collected by retail public utilities would be set at a rate to cover the cost of debt service and facility planning costs each year and be paid out of the Economically Distressed Areas Clearance Fund. Debt service would cost \$4.3 million in fiscal year 2007, rising to \$16.9 million by fiscal year 2010. An additional \$2 million in facility planning grants would be made from proceeds of the Economically Distressed Areas Clearance Fund.

Because of the increase in activity in the EDAP program (an anticipated increase of 10 to 15 EDAP applications annually), the Water Development Board would require additional FTEs for program operations. Because the bill does not provide for such administrative costs to be paid out of the Economically Distressed Areas Clearance Fund, this estimate assumes these costs would be paid out of the General Revenue Fund.

Since fees generating revenue to pay debt service costs would not be created until April 1, 2006, this estimate assumes that the first bonds would be issued in fiscal year 2007. Therefore, additional staff needs in fiscal year 2006 would be limited to two additional FTEs and related costs to coordinate rules and program procedures. In fiscal year 2007, an additional 6.5 FTEs would be added to process applications and coordinate facility planning projects. In fiscal year 2008, an additional 8.5 FTEs would be added to provide capacity development services and handle the increased workload resulting from additional projects being started while other projects move into later stages of development. It is assumed that this staffing level would be maintained through fiscal year 2010.

Local Government Impact

Local governments throughout the state would be the beneficiaries of an additional \$50 million in funding for EDAP projects upon passage of the bill. There could be some costs to local governments and demonstrate sufficient managerial, financial, and technical assistance to operate the system for which the entity would be applying to the Water Development Board for funding. Any cost would be more than offset by assistance received from the EDAP program. However, an applicant not awarded a grant would be required to absorb such costs.

Source Agencies: 580 Water Development Board, 582 Commission on Environmental Quality
LBB Staff: JOB, CL, ZS, TL

LEGISLATIVE BUDGET BOARD

Austin, Texas

TAX/FEE EQUITY NOTE

79TH LEGISLATIVE REGULAR SESSION

May 19, 2005

TO: Honorable Norma Chavez, Chair, House Committee on Border and International Affairs

FROM: John S. O'Brien, Deputy Director, Legislative Budget Board

IN RE: **SB964** by Lucio (Relating to the authorization, administration, and funding of the program to provide financial assistance for the construction, acquisition, or improvement of water supply and sewer services for economically distressed areas.), **Committee Report 2nd House, Substituted**

Because the bill would not create or impact a state tax or fee, no comment from this office is required by the rules of the House as to the general effects of the proposal on the distribution of tax and fee burdens among individuals and businesses.

Source Agencies:

LBB Staff: JOB, WP

LEGISLATIVE BUDGET BOARD
Austin, Texas

TAX/FEE EQUITY NOTE

79TH LEGISLATIVE REGULAR SESSION

May 13, 2005

TO: Honorable Norma Chavez, Chair, House Committee on Border and International Affairs

FROM: John S. O'Brien, Deputy Director, Legislative Budget Board

IN RE: SB964 by Lucio (Relating to the authorization, administration, and funding of the program to provide financial assistance for the construction, acquisition, or improvement of water supply and sewer services for economically distressed areas.), **As Engrossed**

Because the bill would not create or impact a state tax or fee, no comment from this office is required by the rules of the House as to the general effects of the proposal on the distribution of tax and fee burdens among individuals and businesses.

Source Agencies:

LBB Staff: JOB, SJS

S.B. No.

964

By

Lucio

A BILL TO BE ENTITLED

AN ACT:

relating to the authorization, administration, and funding of the program to provide financial assistance for the construction, acquisition, or improvement of water supply and sewer services for economically distressed areas.

MAR 03 2005

Filed with the Secretary of the Senate

MAR 14 2005

Read and referred to Committee on

NATURAL RESOURCES

MAR 16 2005

Referred to Intl. Relations + Trade

Reported favorably

APR 18 2005

Reported adversely, with favorable Committee Substitute; Committee Substitute read first time.

Ordered not printed

Laid before the Senate

MAY 03 2005

Senate and Constitutional Rules to permit consideration suspended by:

BY A VIVA VOCE VOTE

unanimous consent

years, nays

MAY 03 2005

Read second time, Amended, and ordered engrossed by:

unanimous consent

a viva voce vote

years, nays

MAY 03 2005

Senate and Constitutional 3 Day Rule suspended by a vote of 26 yeas, 5 nays.

MAY 03 2005

Read third time, and passed by:

A viva voce vote

26 yeas, 5 nays

AMEND CAPTION TO CONFORM
TO THE BODY OF THE BILL

Lotay Spaw
SECRETARY OF THE SENATE

OTHER ACTION:

May 3, 2005

Engrossed

May 4, 2005

Sent to House

Engrossing Clerk

Mandi Alford

MAY 04 2005

Received from the Senate

MAY 09 2005

Read first time and referred to Committee on Border and International Affairs

MAY 18 2005

Reported favorably () (as substituted)

MAY 20 2005

Sent to Committee on (Calendars) ()

Read second time (comm. subst.) (amended); passed to third reading (failed) by a (non-record vote) (record vote of years, nays, present, not voting)

Constitutional rule requiring bills to be read on three several days suspended (failed to suspend) by a vote of years, nays, present, not voting.

Read third time (amended); finally passed (failed to pass) by a (non-record vote) (record vote of years, nays, present, not voting)

Returned to Senate.

Returned from House without amendment.

Returned from House with amendments.

Concurred in House amendments by a viva voce vote years, nays.

CHIEF CLERK OF THE HOUSE

_____ Refused to concur in House amendments and requested the appointment of a Conference Committee to adjust the differences.

_____ Senate conferees instructed.

_____ Senate conferees appointed: _____, Chairman; _____
_____, _____, and _____

_____ House granted Senate request. House conferees appointed: _____, Chairman;
_____, _____, _____.

_____ Conference Committee Report read and filed with the Secretary of the Senate.

_____ Conference Committee Report adopted on the part of the House by: _____

{ a viva voce vote
_____ yeas, _____ nays

_____ Conference Committee Report adopted on the part of the Senate by:

{ a viva voce vote
_____ yeas, _____ nays

OTHER ACTION:

_____ Recommitted to Conference Committee

_____ Conferees discharged.

_____ Conference Committee Report failed of adoption by: _____

{ a viva voce vote
_____ yeas, _____ nays

05 MAY 20 AM 3: 15
HOUSE OF REPRESENTATIVES